

**WORK SESSION:** A work session will be held at 6:00 p.m. in Conference Room #3, Second Floor, of the Farmington City Hall, 160 South Main Street. The work session will be to answer any questions the City Council may have on agenda items. The public is welcome to attend.

## **FARMINGTON CITY COUNCIL MEETING NOTICE AND AGENDA**

Notice is hereby given that the City Council of **Farmington City** will hold a regular City Council meeting on **Tuesday, January 19, 2016, at 7:00 p.m.** The meeting will be held at the Farmington City Hall, 160 South Main Street, Farmington, Utah.

*Meetings of the City Council of Farmington City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.*

The agenda for the meeting shall be as follows:

### **CALL TO ORDER:**

7:00 Roll Call (Opening Comments/Invocation) Pledge of Allegiance

### **PRESENTATIONS:**

7:05 SAEV (Students Against Electronic Vaping) Coalition Presentation

### **PUBLIC HEARINGS:**

7:10 Plummer Conservation Easement Amendment Request

### **NEW BUSINESS:**

7:40 Corrio Construction to Construct the Community Well House Addition

7:50 Public vs. Private Streets – Meadows at City Park (Discussion Only)

8:00 Review the Existing Sidewalk Inventory around the New Elementary and High Schools

### **SUMMARY ACTION:**

8:15 Minute Motion Approving Summary Action List

1. Clark Lane Apartments Improvements Agreement
2. East Park Lane Subdivision Improvements Agreement
3. Approval of Minutes from City Council held January 5<sup>th</sup>
4. Public Improvements Agreement with Davis School District and Davis County for Road and Culvert Work

## GOVERNING BODY REPORTS:

8:20 City Council Committee Reports

8:30 City Manager Report

1. Police and Fire Monthly Activity Report for December 2015
2. Park Lane Pedestrian Overpass Update
3. Strategic Planning Date
4. Council Committee Assignments

8:35 Mayor Talbot & City Council Reports

## ADJOURN

## CLOSED SESSION

Minute motion adjourning to closed session, if necessary, for reasons permitted by law.

DATED this 14th day of January, 2016.

## FARMINGTON CITY CORPORATION

By: Holly Gadd  
Holly Gadd, City Recorder

**\*PLEASE NOTE:** Times listed for each agenda item are estimates only and should not be construed to be binding on the City Council.

*In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting, should notify Holly Gadd, City Recorder, 451-2383 x 205, at least 24 hours prior to the meeting.*

## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

### **S U B J E C T: Roll Call (Opening Comments/Invocation) Pledge of Allegiance**

It is requested that City Councilmember John Bilton give the invocation to the meeting and it is requested that Councilmember Brett Anderson lead the audience in the Pledge of Allegiance.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.

CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

**S U B J E C T: SAEV (Students Against Electronic Vaping) Coalition Presentation**

**ACTION TO BE CONSIDERED:**

None

**GENERAL INFORMATION:**

McGyver Clark with Davis High School will be making this presentation.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.

## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

### **PUBLIC HEARING: Plummer Conservation Easement Amendment Request**

### **ACTION TO BE CONSIDERED:**

1. Hold the public hearing.
2. Move that the City Council deny the request by Viking Real Estate LLC to amend the Buffalo Ranch Conservation Easement.

### **GENERAL INFORMATION:**

See enclosed staff report prepared by David Petersen.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council

From: David E. Petersen, Community Development Director

Date: January 19, 2016

SUBJECT: **PLUMMER CONSERVATION EASEMENT AMENDMENT REQUEST**

### RECOMMENDATION

1. Hold a public hearing.
2. Move that the City Council deny the request by Viking Real Estate LLC to amend the Buffalo Ranch Conservation Easement.

### Findings:

1. The amendment does not represent a minor or incidental change to the easement because 10 (or 12) of the 33 proposed new uses are expressly prohibited; 18 of the 33 uses maybe inconsistent with the purpose of the easement depending on how implemented; and only three of the 33 uses may be allowed.
2. The proposed amendment does not preserve, to the greatest extent possible, the conservatoin values and intent of the original conservation easement:
  - a. Commercial uses are proposed which provide a private benefit to the landowner or other private party.
  - b. The amendment proposed increased development which does not enhance the conservation values of the property.
  - c. The proposed increased development, and residential density, sets an unfavorable precedent for future amendment requests.
  - d. The existing zoning does not allow many of the uses proposed.
  - e. Subdivisions are expressly prohibited.
  - f. The manipulations of natural water courses as proposed, is not allowed.
  - g. The use of recreational vehicles is prohibited.
3. If challenged, the amendment may adversely affect the City's qualification as holder of the conservation easement.

### BACKGROUND

In conjunction with the overall master plan for the Farmington Ranches Conservation Subdivision, and the development thereof, on July 2, 2003, Viking Real Estate LLC conveyed a conservation easement to Farmington City encompassing approximately 300 acres along the



City's west corporate limit line next to the marsh lands of the Great Salt Lake. The easement identifies permitted, conditional and prohibited uses, but for the most part, only those uses set forth in Exhibit B thereto are allowed.

Spencer Plummer, representing Viking Real Estate LLC, is requesting an amendment to the conservation easement to allow for the possibility of more uses on the property. Such requests must be reviewed and deliberated in accordance with the City's Conservation Easement Amendment Policy (see enclosed). The Council may deny the request, approve it, approve it in part (this may require a line by line review of same), table and defer action, or continue the public hearing to a date certain. If the Council desires to approve it, or approve it in part, staff recommends that the Council table the item to allow time for staff to prepare an amended version of the conservation easement for further consideration.

Standard of Review. Conservation easements exist in perpetuity and are intended to provide permanent protection and preservation of the encumbered property, and may be only amended under one or more of the following conditions set forth in Section 7 (see above referenced policy) as follows:

- a. The amendment represents a minor or incidental change which is not inconsistent with the conservation values or purposes delineated in the easement.
- b. The amendment corrects an error or oversight in the original conservation easement, including, but not limited to: correction of legal descriptions; inclusion of standard language unintentionally omitted; clarification of ambiguous language; clarification of obsolete terms; or clarification to aid in interpretation of the document in the future.
- c. The amendment addresses or responds to any condemnation or threat of condemnation of a portion or all of property encumbered by a conservation easement, and preserves, to the greatest extent possible, the conservation values and intent of the original easement.

**Supplementary Information**

1. Proposed new use table with staff recommendation.
2. Proposed conservation easement amendment request, Spencer Plummer, August 31, 2015
3. Farmington City Conservation Easement Amendment Policy
4. Existing Buffalo Ranch Conservation Easement

Respectively Submitted



David Petersen  
Community Development Director

Review and Concur



Dave Millheim  
City Manager

TABLE:  
Summary of Proposed Uses with Staff Recommendations  
October 20, 2015

Proposed Use by Spencer Plummer	Staff Recommendation*	
	Yes/No	Notes
Baseball Park	Maybe	Public use?
Cemetery	Yes	Issues: Public? location and ground water?
Bike Course	Maybe	Public use?
Ski Lakes	No	Inconsistent with conservation values of property.
Hay Storage Rental & Sales	Maybe	And if existing cluster of buildings is used.
Renting Ranch Housing	Maybe	Allowed by zoning? No new housing.
Recreational Golf Range	Maybe	Public use?
Leasing Stalls	Maybe	Expansion of existing cluster of buildings?
Cattle feed lot	No	Inconsistent with conservation values of property
Growing pumpkins or corn	Maybe	
Pasture and Paddock rental	Maybe	
Raising grass hay & alfalfa	Yes	
Trailer Storage	No	
Wetlands Mitigation Bank	Yes	
Corporate or Executive Mtgs	Maybe	Did this occur before?
Weddings & other Celebratory Parties	Maybe	It depends. And did this occur before?
Leasing existing office space	Maybe	What type of office use?
Wellness treatment center for adults and use of equine therapy	Maybe	Is it non-profit?
Leasing arena for events	Maybe	What kind and magnitude of events?
Recreational Archery course	Maybe	Public use?
Vendor shows	No	Probably not



Equine Sports Medicine	?	More information needed
Veterinary Clinic	Maybe	Magnitude of use? What type of animals?
Mechanics shop	No	
Rock Climbing	Maybe	Public use?
Gas station	No	
Storage units	No	
Recreational training	Maybe	Public use?
Golf Simulators & Golf Academy for Jr. Athletes	?	More information needed
Exclusive Duck Club	Maybe	More information needed
Recreational RV Campground	No	
55 & Up Community (i.e. Daybreak)	No	
Ranchettes	No	
<p>* Note: Initial response only. Recommendations will be judged by a number factors, including but not limited to: use of existing buildings, how implemented, location of use, public vs. private issues, legal opinions, etc.</p>		

August 31, 2015

**BY CERTIFIED MAIL**

Mayor H. James Talbot and  
Members of the City Council  
Farmington City  
160 S Main  
Farmington, Utah 84025

Re: Amended Conservation Easement with Additional Commercial Uses Request

Dear Mayor Talbot and City Council,

Viking Real Estate, LLC (VRE), d.b.a. Buffalo Ranch is located West of the Farmington Ranches Subdivision consisting of 284 acres all within the corporate limits of Farmington.

Having invested 12 years and millions of dollars in infrastructure and improvements in this property, we love this community and realize VRE can offer more value with our 42 years of experience in business. We envision this large parcel of property as an exciting development and a future playground for Farmington Residents and other citizens in Ogden, Davis & Salt Lake County. Historically a grand scale equine facility and a globally recognized brand, the operations of Buffalo Ranch have raised and been home to the top horses in the world. Today, the ownership has expanded the commercial opportunities of the property, following the trend of the great King Ranch of Texas. We foresee grandparents, parents, and their grandkids spending commercial and recreational time at the Ranch, Park, and/or other activities that can be enjoyed just minutes from I-15, Station Park, and the future development of the Farmington Business Park. The Buffalo Ranch Park will be a place where young adults and families can find recreation, recovery, and regalement. This location will complement the city development of Farmington.

The Buffalo Ranch Park envisions a community on the westerly acreage, which would feature one of the greatest ski lakes available in Davis County for a water front property owner. VRE would expand the lake to the south and another lake west and find ways to offer the community ways to enjoy the property. There are no more water front lots available in Utah. There are several of these planned community ski lakes in Utah that would all be second fiddle to Farmington cities Buffalo Ranch Park. Those in Davis County, such as the East Layton Pond, east of Valley View golf course driving range, are not ideal and are not a benefit to all of the community. A couple of good comparables:

- A mature and highly successful private ski lake is Last Chance Lakes near Vernon, in Tooele County. 19 Lots.
- Still Water Lake Estates in Syracuse. 30 Lots on 50 acres. They recently held their Grand Open House August 15<sup>th</sup>.

These projects are not as ideally located as the Buffalo Ranch Lake Estates in Farmington. We would have over 100 acres dedicated to these lakes, which would be enjoyed by the homeowner, community, wildlife and waterfowl. Some of the easements could be maintained and managed by Farmington City for the open lake. This is an archetype plan to protect and enhance the open space for the Planning Commission, City Council, and Community Development Director. This type of recreational

development and use of the open space of the lakes would continue the moniker "the best city in the world to live in."

With the expanded uses and commercial opportunities of the property, we are requesting to amend our existing conservation easement to better clarify our commercial uses, specifically described in Exhibit B (enclosed) & Map w/legend (enclosed).

Phase 2

Please add the following commercial uses to the Amended Conservation Easement (described in Exhibit B).

VRE property is extremely unique and one of the large tracts doing business in Farmington City. These recreational opportunities allowed are not afforded to many other property owners. These uses will provide priceless memories to the community for generations. For me, the memories that never fade are the times I spent on the lake and around the horses. These approved uses marry the best of my life experiences.

We can provide the detail for each use with supporting research either from business plans, experienced operators, JV partners, or our own 40 years in business. Because Exhibit detail is robust, we can provide in our next meeting.

Please call me if you should need any clarification. Mayor Talbot, I look forward to working more with you and our City Council.

Sincerely,

Spencer D. Plummer  
(801) 884-9505  
arc\_of\_flight@me.com

Cc: Viking Real Estate, LLC; Kelly MacFarlane; Dave Millheim, City Manager; Dave Petersen, Community Development Director

# Viking Real Estate, LLC - EXHIBIT B

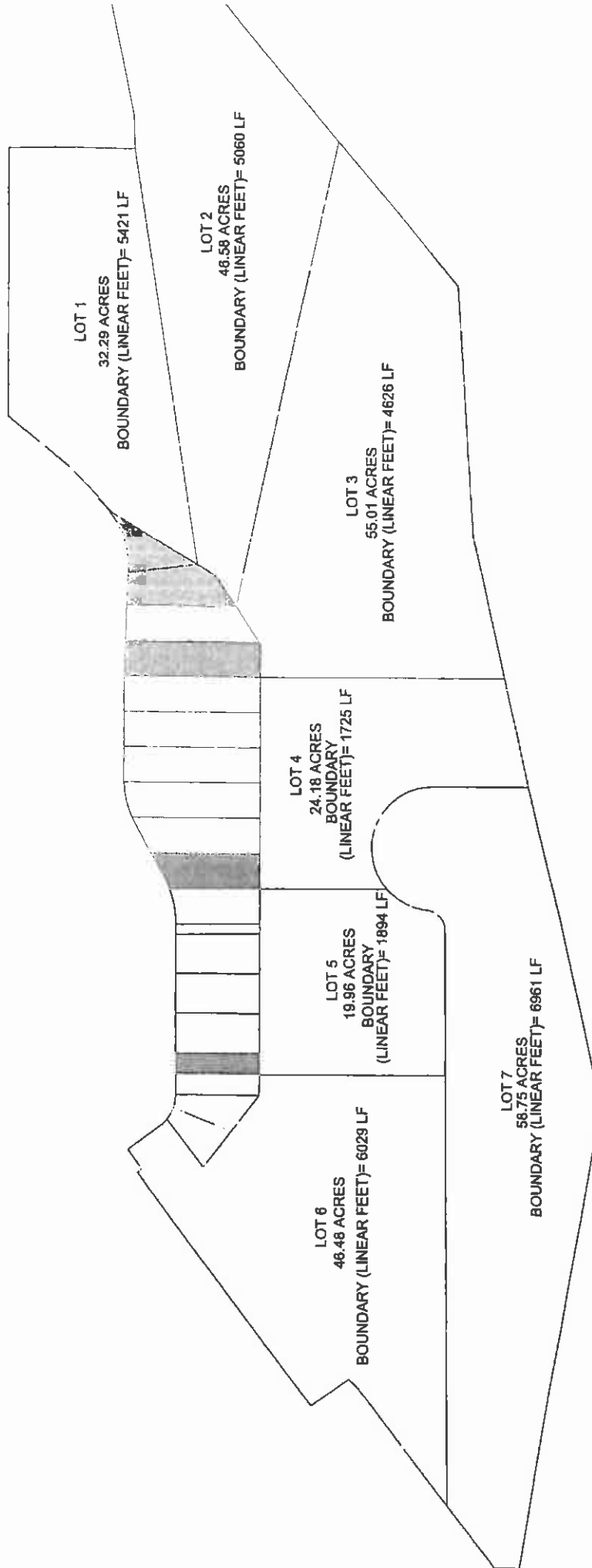
## CONSIDERATIONS FOR OPEN SPACE

Use	Area	Building/Pad Description
Baseball Park	2 & 4	That would eclipse Barns Park
Cemetery	2	
Bike Course	2	Carve out a small piece for the Buffalo Ranch Park.
Ski Lakes	3,4,5	Currently 25 acres – see the Farmington City Arial Map for a spectacular view. With the land, lake, and water rights, easily expand to the south and west. This would enhance Farmington City's visibility and increase traffic to Station Park and the other growing Central Farmington Business Parks. Farmington City is the perfect location. The lakes open space would be 1/3 to 1/2 of the property.

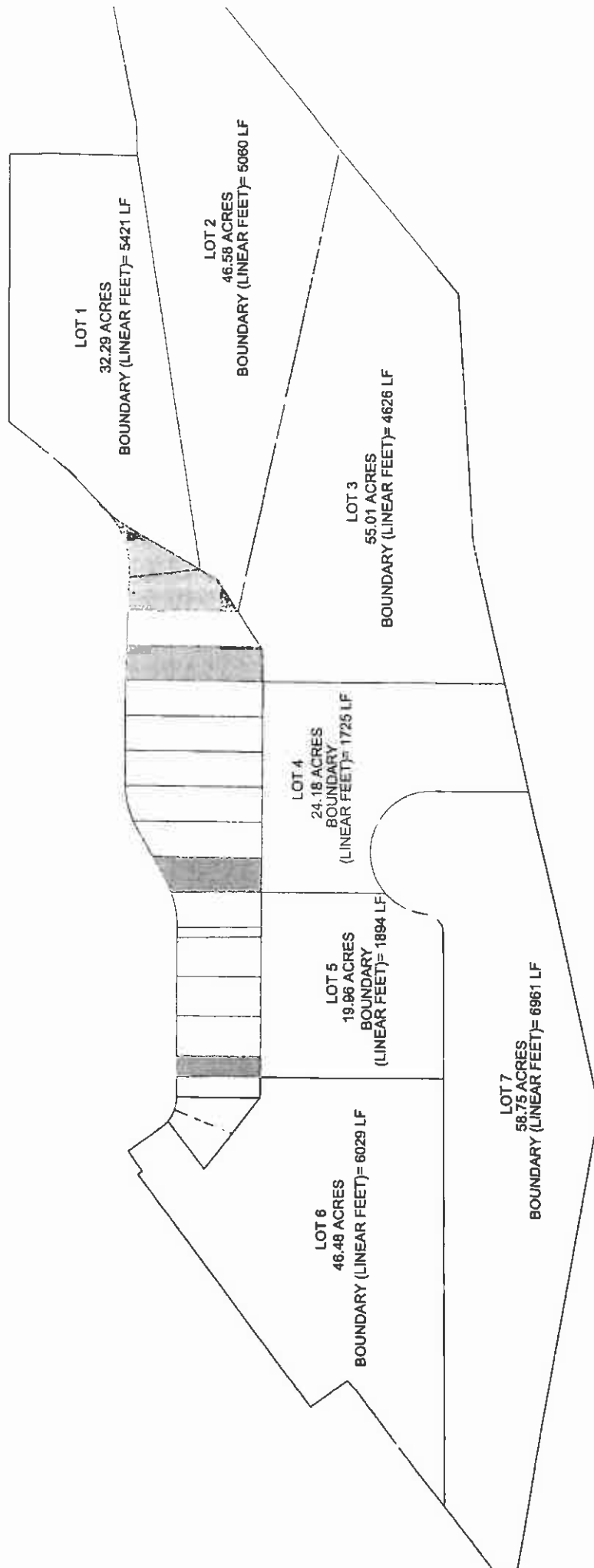
## OTHER BUSINESS USES

Use	Area	Building/Pad Description
Hay Storage Rental & Sales	ALL	1 & 12
Renting Ranch housing	ALL	2, 8, 9, 10
Recreational Golf Range (heated for winter)	ALL	5 or 6
Leasing Stalls (\$450/month).	ALL	all buildings
Cattle Feed Lot	ALL	
Growing pumpkins or corn	ALL	Expansion as part of commercial business Park for Fall customers
Horse Trainer operations	ALL	(monthly training fee \$800 - \$1,500 per horse in stalls = \$104,000 - \$195,000 = per month training fees). Price varies for discipline.
Pasture and Paddock rental	ALL	
Pasture rental for horse events	ALL	
Raising grass hay & alfalfa	ALL	
Trailer storage	ALL	ALL of our customers have recreational trailers.
Wetlands Mitigation Bank	ALL	Dr. Ron Kass study and delineation complete
Corporate or Executive Meetings	1	1 Includes 3rd Floor & 1st Floor Conference Room
Weddings & other Celebratory Parties	1	1
Leasing existing office space	1	1 & 2 Bldg. 1 = 34,500 sq. ft.
Wellness treatment center for adults and use of equine therapy	1	1 & 2 ...and adjacent fields for horses.
Leasing Arena for events	1	1 & 7
Recreational Archery course	1	1 & 7
Vendor shows	1	1 & 7 AQHA, NCHA and other shows that Legacy Events Center refers to Buffalo Ranch.
Equine Sports Medicine	1	ALL Therapeutic training in swimming pools with treadmills designed for horses (has been done for over 20 years).
Veterinary Clinic	1	ALL
Mechanics shop	4	11
Rock Climbing	4	Silos Two Blue Silos
Gas station	1 or 5	Pasture 1 I.e. Kaysville Barns Park Maverik gas station (a home run for the citizens)
Storage Units	1, 2 & 4	5 & 6
Recreational training	1,2,3	1 & 7 Soccer, Lacrosse, Baseball, Hockey, etc.
Golf Simulators & Golf Academy for Jr. Athletes	1,2,3	5 or 6
Exclusive Duck Club	2 & 3	Limited number of memberships
Recreational RV Campground	2 & 4	
55 & UP COMMUNITY (I.e. Daybreak)	3,4,5	We have a lot of family in this demographic and have found there are very few communities that offer what our property can and will offer. Although the Mountain View Corridor runs directly through Daybreak, the City Fathers have appropriately changed master plans and the use of the property to improve and enrich the community.
Ranchettes	3,4,5	No change in zoning needed, only a defined use. Originally, Greentree Development and the City of Farmington worked on in 2008. This project would use our property as the land and the east residential lots as the home sites. Projected expectations for Ranchettes 24m.









TOTAL LINEAR FEET OF FENCING FOR ALL LOTS: 31,716 LF



LOCATED IN SECTION 22 AND THE EASTERLY HALF OF SECTION 27,  
TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN

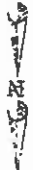


TABLE OF ADJACENT STRUCTURES.

[illegible]

**SURVEYOR'S CERTIFICATE**

I, JOHN A. HARRIS, of the County of CLATSOP, State of OREGON, do hereby certify that the within and foregoing plat of Section 34, Township 36 North, Range 12 East, 1st 6th P.M., Clatsop County, Oregon, was duly laid out and surveyed by me or by my duly authorized agent, and that the same is a true and correct copy of the original filed in my office, and that the same is a true and correct copy of the original filed in my office, and that the same is a true and correct copy of the original filed in my office.

WITNESSED my hand and seal of office this 10th day of April, 1910.

*(Signature)*

JOHN A. HARRIS, Surveyor.

*(Seal)*

CLATSOP COUNTY, OREGON.

APR 10 1910

**BOUNDARY DESCRIPTION**


## BAIRD OF BIRDING


[illegible][illegible]


LEGEND


 NORTH


 PROPOSED ROUTE


 EXISTING ROUTE

 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER

 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER

 1/4 SECTION CORNER

 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER

 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER


 1/4 SECTION CORNER

 1/4 SECTION CORNER

 1/4 SECTION CORNER

 1/4 SECTION CORNER

 1/4 SECTION CORNER

 1/4 SECTION CORNER

 1/4 SECTION CORNER

[illegible]

DATE	07/19/00	
SCALE	1"=300'	
SHEET	1 OF 1	



**WILDING  
ENGINEERING, INC.**  
1000 W. 10TH AVE. / SUITE 200  
DENVER, CO 80202  
303.733.1100

[illegible]

07718008	DATE
1°=300'	SCALE
1 OF 1	SHEET

## **FARMINGTON CITY CONSERVATION EASEMENT AMENDMENT POLICY**

### **1. Farmington City Conservation Easements.**

Farmington City is a governmental entity and a tax exempt entity under Section 501(c) of the *Internal Revenue Code* qualified to acquire conservation easements under the terms of the Land Conservation Easement Act, as set forth in *Utah Code Ann. §§ 57-18-1, et seq.*, as amended. Farmington City has enacted Conservation Subdivision Ordinances, as more particularly set forth in Title 11, Chapter 12, of the Farmington City Municipal Code, providing for the development of subdivisions with incentives to preserve and provide for the conservation of open space and other sensitive and valued land within the City. Farmington City has acquired a number of conservation easements over and across various open space and conservation lands within the City and intends to acquire and provide for future conservation easements preserving and protecting open space and conservation lands within the City. Farmington City holds such conservation easements for the benefit of current and future generations and has the obligation to uphold such conservation easements in perpetuity for the purposes set forth therein.

### **2. Amending Conservation Easements in General.**

Conservation easements are generally intended to provide for the permanent and perpetual protection and preservation of the encumbered property. By their terms, conservation easements are not generally permitted to be terminated or altered. It is very important to land conservation efforts to provide for and honor the permanence of conservation easement restrictions. If they are not treated as essentially unchangeable, landowners may be less willing to entrust the protection of their property to land trusts and/or to encumber their property with conservation easements. However, it has also been noted that it is unrealistic to expect that conservation easements must or should always preclude amendment. There are too many unknowns at the time of creation of a conservation easement, and it is often not possible to foresee and record for all time the best and sole use of property. As such, some jurisdictions have recognized that amendments to conservation easements may be necessary on occasion and under reasonable circumstances.

### **3. Farmington City Amendment Policy.**

It is Farmington City's intent and desire to uphold the terms and conditions of conservation easements it holds and to preserve and protect the conservation values of all property so encumbered. Farmington City also recognizes the need to provide for amendments to such easements in limited circumstances as necessary. Any and all amendments to conservation easements held by Farmington City must be approached with great care and shall be approved only in limited circumstances in accordance with and subject to the amendment policies and procedures more particularly set forth herein.

**4. Amendment Application.**

Any person or entity that is the legal property owner of record of property encumbered by a conservation easement held by Farmington City desiring to amend the provisions of such conservation easement shall be required to file a written application for amendment with the City. All applications for amendment shall be signed by the property owner(s) of record, or his/her/its authorized agent, and filed with the Community Development Director. All applications for amendment shall include the following:

- a. A written description of the proposed conservation easement amendment, including suggested language for any text amendments;
- b. A statement of the grounds and reasons for the proposed amendments and sufficient evidence in support of the same, including discussion of the compliance of the amendment with the qualifications and criteria set forth in this Policy;
- c. All maps and/or documents applicable to the proposed amendment;
- d. The names and addresses of all property owner(s) of record for the subject property encumbered by the conservation easement; and
- e. The fee required for conservation easement amendments as set forth in the City's Consolidated Fee Schedule.

**5. Application Fee and Costs.**

Unless specifically waived by the City, the application fee for a conservation easement amendment application shall be as set forth in the City's Consolidated Fee Schedule. The applicant shall also pay any staff, legal, and engineering fees incurred by the City in response to an application request. A "Professional Services Deposit" in an amount as set forth in the City's Consolidated Fee Schedule shall be collected at the time of application to cover these costs. Any unused deposit will be refunded to the applicant, and applicant will be responsible for any costs incurred above the amount collected for the Professional Services Deposit. Such fees shall be paid whether the application is approved or not. In addition, the City may condition approval of the amendment upon payment to a Conservation Easement Enforcement and Monitoring Fund of an amount sufficient to offset any increased monitoring or enforcement obligations of the City.

**6. Application Review and Approval.**

- a. **Community Development Director Recommendation.** The Community Development Director, or his or her designee, shall review any application for amendment to a conservation easement. Such review shall include, at a minimum, a site visit to the subject property and a review of the original records of approval for the easement, including the stated conservation values of the subject easement. The Community Development Director shall prepare a written report of recommendation

regarding the proposed conservation easement amendment to the City Council for their review and consideration in accordance with the procedures set forth herein. The Community Development Director may request any further information, data or evidence deemed necessary from the applicant. Upon completion of his or her review, the Community Development Director shall forward his or her report of recommendation to the City Council.

b. **Notice and Public Hearing.** The City Council shall provide at least fourteen (14) days advance notice of a public hearing to be held in consideration of the proposed conservation easement amendment. Such notice shall be provided by publishing in a daily newspaper of general circulation in the City. After proper notice, the City Council shall hold a public hearing on the proposed conservation easement amendment. In addition to the public hearing, the applicant shall be provided an opportunity to address the City Council regarding the amendment and to respond to any issues or comments made regarding the proposed amendment during public comment or raised by the City Council.

c. **City Council Review and Approval.** The City Council shall review the application and record provided for the proposed amendment and shall consider relevant public comment regarding the same. The City Council shall further review and determine whether the proposed amendment meets the qualification and criteria set forth in this Policy. The City Council may thereafter approve or deny, in whole or in part, the application for amendment.

d. **Executed Recording.** Most conservation easements, by their terms, require approval of the amendment by both the Grantor and the Grantee, or their authorized successors and assigns. Any amendments to a conservation easement permitted hereunder shall be in writing, signed by the required parties of interest, and recorded in the Davis County Recorder's Office.

e. **Easement Terms.** In the event the terms of the subject conservation easement provide for greater noticing or procedural requirements for any amendment, such noticing and procedural requirements shall govern. The procedures and noticing provisions set forth herein are intended to be a minimum.

## **7. Conditions for Qualification.**

Any request for amendment to a conservation easement will be reviewed by the City Council according to the procedures set forth in this Policy and will be approved only under one or more of the following conditions:

a. The amendment represents a minor or incidental change which is not inconsistent with the conservation values or purposes delineated in the easement.

b. The amendment corrects an error or oversight in the original conservation easement, including, but not limited to: correction of legal descriptions; inclusion of standard language unintentionally omitted; clarification of ambiguous language; clarification of obsolete terms; or clarification to aid in interpretation of the document in the future.

c. The amendment addresses or responds to any condemnation or threat of condemnation of a portion or all of property encumbered by a conservation easement, and preserves, to the greatest extent possible, the conservation values and intent of the original easement.

**8. Mandatory Criteria.**

Any request for amendment to a conservation easement will be reviewed by the City Council according to the procedures set forth in this Policy and will be approved only if all of the following criteria can be met:

a. The amendment is consistent with the overall purposes of the conservation easement and will not be detrimental to or compromise the protection of the stated conservation values of the property.

b. The amendment is substantially equivalent to or enhances the conservation values of the property, adds adjacent land, or achieves greater conservation of the property.

c. The amendment is consistent with the City's goals for conservation of land under applicable City Ordinances and will not undermine the City's obligation to preserve and enforce conservation easements it has accepted.

d. The amendment is the minimum change necessary to achieve the desired and acceptable purpose.

e. The amendment is clearly warranted and in the best interest of public and subject property.

f. Granting of the amendment will not set an unfavorable precedent for future amendment requests.

g. The amendment does not adversely affect the City's qualification as holder of conservation easements.

h. The amendment does not provide a private benefit to the landowner or any private party.

⑨ (9) 2 1/2 22 J-1  
2 1/2 07

WHEN RECORDED, MAIL TO:

Farmington City  
c/o City Manager  
130 North Main  
P.O. Box 160  
Farmington, Utah 84025

E 1893293 B 3341 P 1691  
RICHARD T. MAUGHAN, DAVIS CNTY RECORDER  
2003 JUL 29 2:01 PM FEE 48.00 DEP MEC  
REC'D FOR WESTERN STATES TITLE COMPANY

CERTIFIED AS A FULL TRUE  
AND CORRECT COPY OF THE  
ORIGINAL  
WESTERN STATES TITLE CO.  
*[Signature]*

CONSERVATION EASEMENT

(OPEN SPACE AND FARMLAND)

THIS CONSERVATION EASEMENT is made this 2nd day of July, 2003, by VIKING REAL ESTATE, L.L.C., a Utah limited liability company (hereinafter "Grantor"), whose address is Attn: S. David Plummer, 877 Signal Hill, Fruit Heights, Utah 84037, in favor of FARMINGTON CITY, a Utah municipal corporation, (hereinafter "Grantee"), whose mailing address is P. O. Box 160, Farmington, UT 84025.

RECITALS:

WHEREAS, Grantor is the sole owner in fee simple title of certain real property located in Farmington City, Davis County, State of Utah, which property is more particularly described herein at Section 2, hereinafter referred to as the "Property"; and

WHEREAS, the Property possesses unique and sensitive natural, scenic, open space, wildlife, farmland, floodplain, and/or wetland values (collectively referred to as "conservation values") of great importance to the Grantor, the Grantee, Farmington City, and the public; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by continuation of the use of the Property in such a way which does not significantly impair or interfere with those values and which provides for appropriate ecological, agricultural, open space, recreational and educational uses of the Property; and

WHEREAS, Grantor intends to preserve and protect the conservation values of the Property in perpetuity through this Easement and dedication of the same to Grantee.

WHEREAS, Grantee is a tax exempt entity under Section 501(c) of the *Internal Revenue Code* qualified to acquire a conservation easement under the terms of *Utah Code Ann. § 57-18-3*, as amended.

NOW, THEREFORE, in consideration of the above and the covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Utah,

particularly the Utah Land Conservation Easement Act as set forth in *Utah Code Ann.* § 57-18-1, et seq., as amended, with the intention of making an irrevocable easement in perpetuity, Grantor hereby agrees and conveys as follows.

1. Conveyance. Grantor hereby grants and warrants to Grantee, a perpetual conservation easement as hereinafter defined (the "Easement") over and across all the Property to preserve, restore and protect the natural, ecological, water, wildlife, open space, farmland, wetland, floodplain, scenic, educational and aesthetic values present on the Property, to have and to hold unto Grantee, its successors and assigns forever.

(a) Property. The Property subject to this Easement consists of approximately 286 acres of the Farmington Ranches Conservation Subdivision Development located in Township 3 North, Range 1 West, Salt Lake Base and Meridian, Farmington City, Davis County, State of Utah, as more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference.

2. Current Use and Condition of Property. The Property presently consists of wetlands, pasture lands, agricultural structures including barn and silos, and natural open spaces and is located at approximately 100 North and 2000 West, Farmington, Utah. The existing, permitted, and conditional uses of the Property are more particularly described on the Use Map set forth in **Exhibit "B,"** attached hereto and incorporated herein by this reference. The Property has the following specific conservation values: unique, sensitive, natural, ecological, educational, scientific, scenic, aesthetic, wildlife, farmlands, water resources, wetlands, riparian communities, floodplains and open space.

3. Purpose. Grantor is the fee simple title owner of the Property and is committed to preserving the conservation values of the Property. The purpose of this Easement is to assure that the Property will be retained forever in its natural, scenic, agricultural and/or open space condition and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. Any use of the Property which may impair or interfere with the conservation values, unless expressly permitted in this Easement, is expressly prohibited. Grantor agrees to confine use of the Property to activities consistent with the purposes of this Easement and preservation of the conservation values of the Property.

4. Duration. The duration of the Easement shall be perpetual.

5. Permitted and Conditional Uses.

(a) Subject to the terms and conditions set forth in this Easement, the following activities and/or uses of the Property are permitted:

(i) Conservation of open land in its natural state.



(ii) Agricultural uses, including raising crops, raising and breeding class "B" and "C" livestock, as defined by Farmington City Ordinances, and the training, breeding and selling of horses, excluding commercial livestock operations involving swine, poultry and mink, in designated areas only as delineated on Exhibit "B."

(iii) Pastureland for sheep, cows and horses in designated areas only as delineated on Exhibit "B."

(iv) Equestrian facilities for class "B" and "C" animals, as defined by Farmington City Ordinances, in designated areas only as delineated on Exhibit "B;" provided, enclosed riding arena(s) shall require a conditional use permit from the City of Farmington in accordance with the provisions of Subsection (b).

(v) Underground utility facilities and easements for drainage, sewer, water, or other public facilities and purposes, including easements for maintenance access to such facilities, in locations as approved by the City of Farmington, subject to restoration of the Property to its natural condition within a reasonable time frame not to exceed ninety (90) days, unless otherwise agreed to in writing by the Grantee, which restoration shall be conducted to the reasonable satisfaction of the Grantee to protect and preserve the conservation values of the Property. Nothing contained herein shall prevent the continued use of existing above-ground utility facilities to the extent permitted by law as delineated on the Use Map set forth in Exhibit "B."

(vi) Public streets approved by the City of Farmington in designated areas as set forth on approved subdivision plat(s) and access roads necessary for reasonable access to and for permitted and conditional uses in designated areas as delineated on Exhibit "B."

(vii) Although fencing is not encouraged, existing fences may be repaired and replaced, and new fences may be built on the Property as necessary and appropriate in connection with permitted or conditional uses such as grazing and equestrian uses.

(viii) Existing agricultural and residential structures and improvements may be repaired, reasonably enlarged and replaced at their current locations as delineated on Exhibit "B."

(ix) Livestock grazing may be permitted on the Property in designated areas as delineated on Exhibit "B," provided that good range stewardship and proper management of livestock is provided. Livestock grazing shall not exceed a

degree of use described as good to excellent by the United States Department of Agriculture - Natural Resource Conservation Service, and shall not materially degrade or deteriorate the range resource, wildlife habitat or conservation values of the Property.

(b) Subject to the terms and conditions set forth in this Easement, the following activities and/or uses of the Property may be permitted as a conditional use, subject to obtaining a conditional use permit from the City of Farmington for such use in accordance with City Ordinances regarding the same:

(i) Non-commercial and non-motorized recreational use of the Property, such as trails, bikeways, playing fields and playgrounds, in designated areas only as delineated on Exhibit "B."

(ii) Community open space uses, such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses, excluding motorized vehicles, firearm shooting ranges and commercial uses, in designated areas only as delineated on Exhibit "B."

(iii) Accessory buildings and structures used solely in connection with permitted agricultural uses, such as barns, silos, and residential structures used solely to house farm owners or employees, in designated areas only as delineated on Exhibit "B." The location and construction of such accessory structures shall be consistent with the conservation and agricultural uses of the Property.

(iv) Educational structures and improvements in designated areas as delineated on Exhibit "B." The establishment of such structures and improvements shall be limited to education purposes and shall be consistent with the conservation and agricultural uses of the Property. Residential use of such structures may be permitted as part of the conditional use permit solely to house conservation easement management or enforcement personnel.

(v) Water structures, improvements, marshlands, wetlands, riparian communities and ponds may be established, constructed and maintained on the Property, provided such structures or improvements are consistent with the conservation purposes of this Easement.

6. Prohibited Uses. Any activity on or use of the Property not specifically listed as a permitted use or activity as set forth herein and/or any activity on or use of the Property which is inconsistent with the purpose of this Easement or detrimental to the conservation values is expressly prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (a) Any residential, commercial or industrial activity, except as expressly permitted in this Easement.
- (b) Any development, construction or location of any man-made modification or improvements such as buildings, structures, fences, roads, parking lots, or other improvement on the Property, except as expressly permitted in this Easement.
- (c) Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the Property.
- (d) Any dumping or storing of ashes, trash, garbage or junk on the Property.
- (e) The manipulation or alteration of natural watercourses, wetlands, or riparian communities, except as expressly permitted herein or as approved by the City of Farmington as designated on approved subdivision plat(s), necessary for the use of the Property and then, in any event, only to the extent that such manipulation or alteration shall not result in a significant injury to or the destruction of significant conservation values.
- (f) Burning of any materials on the Property, except as necessary for agricultural, drainage and fire protection purposes.
- (g) The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles, except as may be necessary to maintain and operate the Property and to maintain and operate utility lines running through the Property in accordance with the terms and conditions of such approved use and the maintenance plan for the Property.
- (h) Hunting or trapping for any purpose other than predatory or problem animal control on the Property.
- (i) Establishment or maintenance of any grazing or livestock feedlots on the Property, which shall be defined for purposes of this Easement as a permanently constructed confined area or facility within which the land is not grazed or cropped annually, for purposes of engaging in the business of the reception and feeding of livestock for hire.
- (j) Any agricultural use of the Property not expressly permitted herein.
- (k) Advertising of any kind or nature on the Property and any billboards or signs; provided, directory and information signs may be displayed describing the Conservation Easement and prohibited or authorized use of the same and signs regarding any permitted or conditional use on the Property. Additional signs regarding permitted or

conditional uses on the Property or directory or information signs within the Conservation Easement shall comply with all applicable Farmington City Ordinances, including, but not limited to, the Farmington City Sign Ordinance, and all signs shall be consistent with the conservation and agricultural uses of the Property.

(l) Any cutting of trees or vegetation, except as necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses.

(m) The change, disturbance, alteration, or impairment of the significant natural ecological features and values of the Property or the destruction of other significant conservation interests on the Property.

(n) The division, subdivision or *de facto* subdivision of the Property; except for subdivision and dedication of the Property as necessary to dedicate approved trails within the Property, including the Great Salt Lake Shoreline Trail and the Cross Project Trail, as specifically delineated on Exhibit "B," or as necessary and desirable to dedicate a portion of the underlying fee to a qualified conservation organization in accordance with the purposes and intent of this Easement for the preservation, protection and enhancement of the conservation values of the Property.

(o) Changing the topography of the Property by placing on it any soil, dredging spoils, land fill, or other material, except as necessary to conduct specific agricultural purposes or to construct other structures, conditions or improvements as permitted herein.

(p) All other uses and practices inconsistent with and significantly detrimental to the stated objectives and purpose of the Easement.

7. Rights of the Grantee. Grantor confers the following rights upon Grantee to perpetually maintain the conservation values of the Property and to accomplish the purpose of this Easement.

(a) Grantee has the right to enforce the terms of this Easement for the purpose of preserving and protecting the conservation values of the Property.

(b) Grantee has the right to enter upon the Property at reasonable times to monitor or to enforce compliance with this Easement and to inspect and enforce the rights herein granted; provided that such entry shall not unreasonably interfere with the Grantor's use and quiet enjoyment of the Property.

(c) Grantee has the right to enjoin and prevent any activity on or use of the Property that is inconsistent with the terms or purposes of this Easement and to preserve and protect the conservation values of the Property.

(d) Grantee has the right to require restoration of the areas or features of the Property which are damaged by activity inconsistent with this Easement.

(e) Grantee has the right to place signs on the Property which identify the Property as being protected by this Easement.

(f) Grantee has the right to enter on the property to study and make ecological and scientific observation of the Property and its ecosystems.

8. Duties of the Grantor. Grantor retains ownership rights of the underlying fee simple title to the Property which are not expressly restricted by this Easement. In accordance with rights reserved in Grantor by this Easement, Grantor shall be subject to all terms, conditions and restrictions of this Easement and shall have the affirmative duty to refrain from conducting or causing to be conducted any action inconsistent with the purpose and provisions of this Easement and to take reasonable actions to preserve and protect the aesthetic, open space, farmland, floodplain, wetland and/or wildlife habitat values of the Property.

9. Enforcement of Easement.

(a) Notice and Demand. If Grantee determines that Grantor is in violation of this Easement, or that a violation is threatened, the Grantee may provide written notice to the Grantor of such violation and request corrective action to cure the violation or to restore the Property. In the event Grantee determines that the violation constitutes immediate and irreparable harm, such notice shall not be required.

(b) Failure to Act. If, for a 30-day period after the date of the written notice from Grantee to Grantor, the Grantor continues violating the Easement, or if the Grantor does not abate the violation and implement corrective measures requested by the Grantee, the Grantee may bring an action in law or in equity to enforce the terms of the Easement. The Grantee is also entitled to enjoin the violation through injunctive relief, seek specific performance, declaratory relief, restitution, reimbursement of expenses or an order compelling restoration of the Property. If the court determines that the Grantor has failed to comply with this Easement, the Grantor agrees to reimburse Grantee for all reasonable costs and attorneys fees incurred by the Grantee compelling such compliance.

(c) Absence of Grantor. If the Grantee determines that the Easement is, or is expected to be, violated, the Grantee shall make good-faith efforts to notify the Grantor. If, through reasonable efforts, the Grantor cannot be notified, and if the Grantee determines that circumstances justify prompt action to mitigate or prevent impairment of

the conservation values, then the Grantee may pursue its lawful remedies without prior notice and without waiting for Grantor's opportunity to cure. Grantor agrees to reimburse Grantee for all costs reasonably incurred by Grantee in pursuing such remedies.

(d) Actual or Threatened Non-Compliance. Grantor acknowledges that actual or threatened events of non-compliance under this Easement constitute immediate and irreparable harm. The Grantee is entitled to invoke the equitable jurisdiction of the court to enforce this Easement.

(e) Injunctive Relief and Restoration. Any violation of the Easement shall be subject to termination through injunctive proceedings with the imposition of temporary restraining orders or through any other legal means, it being recognized that monetary damages and/or other non-injunctive relief would not adequately remedy the violation of the covenants and restrictions of the Easement. In addition, subject to the provisions set forth herein, the Grantee shall have the right to enforce the restoration of the portions of the Property affected by activities in violation of the Easement to the condition which existed at the time of the signing of this instrument.

(f) Cumulative Remedies. The remedies set forth herein are cumulative. Any, or all, of the remedies may be invoked by the Grantee if there is an actual or threatened violation of this Easement.

(g) Waiver. A delay in enforcement shall not be construed as a waiver of the Grantee's right to enforce the terms of this Easement.

#### 10. Permitted Construction and Maintenance Activities.

(a) Grantor hereby reserves the right to enter upon the Property to conduct the following activities: to construct such structures and improvements permitted herein in conjunction with permitted and conditional uses of the Property.

(b) Grantor reserves the right to use, maintain, establish, construct and improve water sources, water courses, marshlands and ponds within the Property for uses permitted by this Easement, provided Grantor does not significantly impair or disturb the natural course of the surface water drainage or runoff flowing over the Property. Grantor may alter the natural flow of water over the Property in order to improve drainage of agricultural soils, reduce soil erosion, or improve the agricultural or wetlands potential of the Property, provided such alteration is consistent with the conservation purpose of this Easement. Grantor retains and reserves the right to use any appurtenant water rights sufficient to maintain the agricultural and educational productivity of the Property. Grantor shall not transfer, encumber, lease, sell or otherwise sever any water, mineral or other rights from title to the Property itself.

(c) This Easement is subject to the rights of Grantor, Farmington City or any other agency or utility to enter upon the Property for the construction, installation, operation and maintenance of subsurface utilities as permitted herein. After exercise of rights retained herein, Grantor or the permitted entity or utility company in interest, shall take reasonable actions to restore the Property to its natural condition existing prior to the conduct of any of the foregoing activities.

11. Extinguishment of Development Rights. Except as otherwise reserved to the Grantor in this Easement, all development rights appurtenant to the Property are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise or used for the purpose of calculating permissible lot yield of the Property or any other property.

12. Maintenance. The Property shall be maintained by Grantor in accordance with the Maintenance Plan set forth as Exhibit "C," attached hereto and incorporated herein by this reference. Grantor shall be solely responsible for the upkeep and maintenance of the Property.

13. Taxes. Grantor shall pay all taxes, assessments, fees and charges of whatever description levied on or assessed against the Property, including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor shall reimburse Grantee for the same.

14. Indemnification. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents and contractors, and the successors and assigns of each of them, collectively referred to as the "Indemnified Parties," from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or with respect to the Property, unless due to the gross negligence or willful misconduct of Grantee. Grantor shall keep the Property insured with comprehensive general liability insurance against claims for personal injury, death and property damage and shall name Grantee as an additional insured party on all such insurance policies, providing Grantee evidence of such insurance upon request.

15. Transfer of Grantee's Interest. If the Grantee determines that it no longer is able to enforce its rights under this instrument or that it no longer desires to enforce the rights, or desires to assign enforcement rights to a qualified organization under Section 501(c)(3) and/or 170(h)(3) of the *Internal Revenue Code*, the Grantee shall be entitled to convey in whole or in part all of its rights under this instrument and deliver a copy of this instrument to an organization designated by the Grantee and described in or contemplated by Section 501(c)(3) and/or 170(h)(3) of the Code, or the comparable provision in any subsequent revision of the Code, to ensure that the Easement is enforced. Furthermore, the Grantee is hereby expressly prohibited from subsequently transferring the Easement, whether or not for consideration, unless (a) the



Grantee, as a condition of the subsequent transfer, requires that the conservation purposes which the Easement is intended to advance continue to be carried out; and (b) the transferee is an organization qualifying at the time of the transfer as an eligible donee under Section 501(c)(3) and/or 170(h)(3) of the Code and regulations promulgated thereunder.

16. Cessation of Grantee's Existence. If Grantee shall cease to exist or if the Grantee is no longer authorized to acquire and hold conservation easements, then this Easement shall become vested in another entity. Any successor entity shall be a qualified organization for the purposes of Section 501(c)(3) and/or 170(h)(3) of the *Internal Revenue Code*.

17. Termination of the Easement. This Easement may be extinguished only by an unexpected change in condition which causes it to be impossible to fulfill the Easement's purpose or by exercise of eminent domain in accordance with the provisions set forth herein. The fact that the Grantee may have title to the Property and therefore may become an Owner for purposes of this Easement shall not cause a termination of this Easement by operation of the doctrine of merger or otherwise. The Grantee shall not voluntarily or willingly allow the termination of any of the restrictions of this instrument, and if any or all of the restrictions of the Easement are nevertheless terminated by a judicial or other governmental proceeding, any and all compensation received by the Grantee as a result of the termination shall be used by the Grantee in a manner consistent with the conservation purposes of the Easement. If subsequent circumstances render the purposes of this Easement impossible to fulfill, then this Easement may be partially or entirely terminated only by judicial proceedings.

18. Transfer of Grantor's Interest. The Grantor shall incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Any such transfer of interest shall be subject to the restrictions set forth in this Easement. The failure of the Grantor to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way. Upon proper and permitted conveyance of title to the Property, the Grantor shall be released from its obligations under this Easement.

19. Notices. Any notice, demand, request, consent, approval, or communication shall be in writing and served personally or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the following:

To Grantee:

Farmington City  
Attn: City Manager  
P.O. Box 160  
130 North Main  
Farmington, Utah 84025

To Grantor:

VIKING REAL ESTATE, L.L.C  
Attn: S. David Plummer  
877 Signal Hill  
Fruit Heights Utah 84037

or to such other address as the Grantee or Grantor shall from time to time designate by written notice.

20. Title Warranty. Grantor warrants that it has good and sufficient title to the Property, free from all encumbrances except those set forth in Exhibit "D," attached hereto and incorporated herein by this reference, and hereby promises to defend the same against all claims that may be made against it.

21. Subsequent Encumbrances. This Easement shall not restrict the right of Grantor or its successors or assigns to execute, deliver and record mortgages on the Property or to grant other rights or easements in respect of the Property, subject to the terms and conditions set forth herein. The grant of any easement or use restriction that might diminish or impair the agricultural viability of the Property or otherwise diminish or impair the conservation values of the Property is prohibited. Any lien or security interest of a mortgage and any easement or other right created subsequent to the date hereof shall be subject to and subordinate to this Easement.

22. Environmental Warranty. Grantor warrants that it has no actual knowledge or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable law, and hereby promises to indemnify Grantee against, and hold Grantee harmless from, any and all loss, cost, claim, liability or expense, including reasonable attorney's fees arising from or with respect to any release of hazardous waste or violation of environmental laws with respect to the Property, unless due to the gross negligence or willful misconduct of Grantee.

23. Recordation. The Grantee shall record this instrument in timely fashion in the official records of Davis County, Utah, and may re-record it at any time as may be required to preserve its rights in this Easement.

24. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Utah.

25. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Easement to effect the purpose of this Easement and the policy and purpose of *Utah Code Ann. § 57-18-1, et seq.*, as amended, and related provisions. If any provision in this instrument is found to be ambiguous,

an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

26. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

27. Joint Obligation. Subject to the provisions set forth herein, the obligations imposed by this Easement upon Grantor or Grantors shall be joint and several.

28. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Grantee, the Grantor, and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

29. Entire Agreement. This Easement, together with all exhibits, sets forth the entire agreement of the parties with respect to the subject matter hereof and supercedes all prior discussions and understandings.

30. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

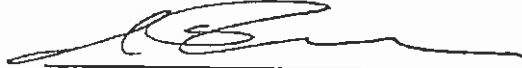
[Signatures Appear on Next Page]

E 1893293 B 3341 P 1703

IN WITNESS WHEREOF, Grantor has executed this instrument on the day and year first above written.

**GRANTOR:**

**VIKING REAL ESTATE, L.L.C.**, a Utah limited liability company

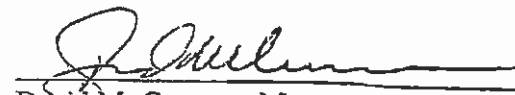


By: member

Its: Manager


**GRANTEE:**

**FARMINGTON CITY**, a Utah municipal corporation



David M. Connors, Mayor

**ATTEST:**

  
Farmington City Recorder



### GRANTOR'S ACKNOWLEDGMENT

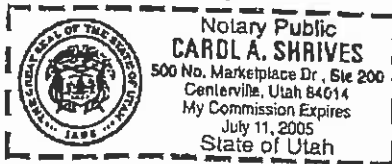
STATE OF UTAH )

E 1893293 B 3341 P 1704

COUNTY OF David )

:ss.

On the 1st day of July, 2003, personally appeared before me L. David Plummer who being by me duly sworn did say that she/he is the Manager of VIKING REAL ESTATE, L.L.C., a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledged to me that said limited liability company executed the same.



Carol A. Shriver  
Notary Public

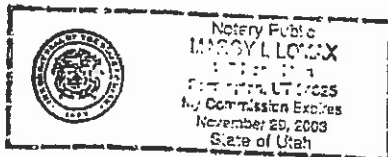
### GRANTEE'S ACKNOWLEDGMENT

STATE OF UTAH )

COUNTY OF Davis )

:ss.

On the 2 day of July, 2003, personally appeared before me David M. Connors who being by me duly sworn did say that ~~she~~/he is the Mayor of FARMINGTON CITY and that the within and foregoing instrument was signed on behalf of said City and duly acknowledged to me that said City executed the same.



Margy L. Lomax  
Notary Public

## EXHIBIT "A"

## LEGAL DESCRIPTION OF EASEMENT AREA

A parcel of land situate in Section 22 and Section 27, Township 3 North, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

BEGINNING at the North Quarter corner of said Section 22, thence easterly along the north line thereof, North 89°51'14" East 126.48 feet; thence leaving said north line South 37°28'18" East 705.67 feet; thence South 37°16'21" East 442.94 feet; thence South 42°23'39" East 69.91 feet; thence North 54°46'47" East 235.47 feet; thence South 37°16'53" East 1485.80 feet; thence South 53°51'19" West 202.72 feet to the beginning of a tangent curve to the left having a radius of 200.00 feet, thence along the arc of said curve 55.52 feet, through a central angle of 15°56'07"; thence North 37°36'00" West 309.62 feet; thence South 37°55'12" West 468.27 feet; thence South 00°06'24" East 2297.94 feet; thence South 33°24'04" East 426.96 feet; thence South 53°45'04" East 1344.32 feet; thence South 00°14'54" East 1372.96 feet; thence South 89°27'22" West 658.12 feet; thence South 02°02'47" East 169.62 feet; thence South 11°52'56" East 626.17 feet; thence North 89°44'44" West 574.91 feet; thence North 39°59'49" West 1913.90 feet; thence North 03°40'22" West 1280.75 feet; thence North 12°59'23" West 2971.99 feet; thence North 09°55'45" East 2415.72 feet to the point of beginning.

The parcel of land described above contains 282.437 acres, more or less.

08-069-0001

08-069-0002

08-069-0003

08-069-0004, 0005

08-069-0011

08-070-0002

08-083-0003, 0004

EXHIBIT "B" E 1893293 B 3341 P 1706

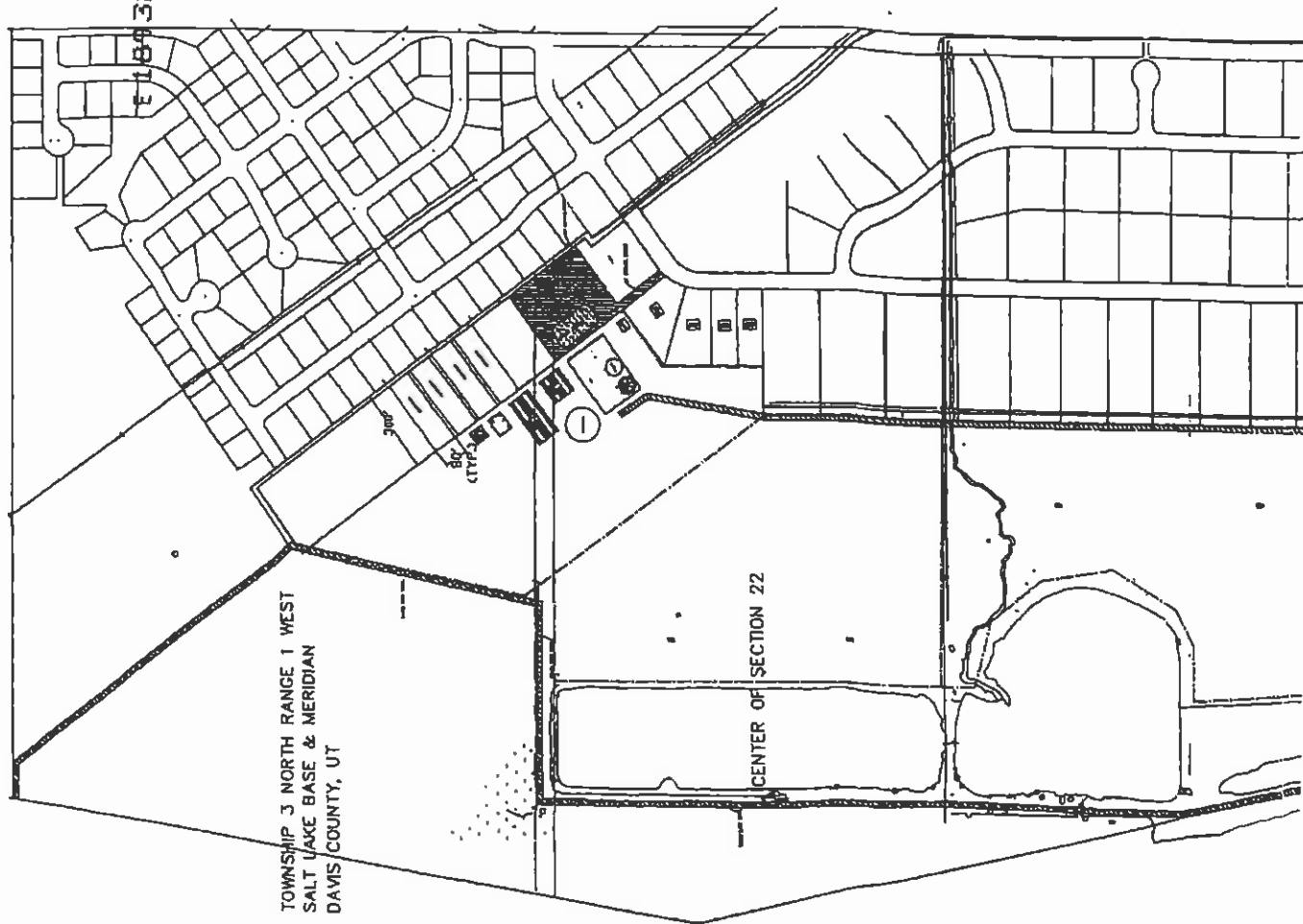
USE MAP OF EASEMENT



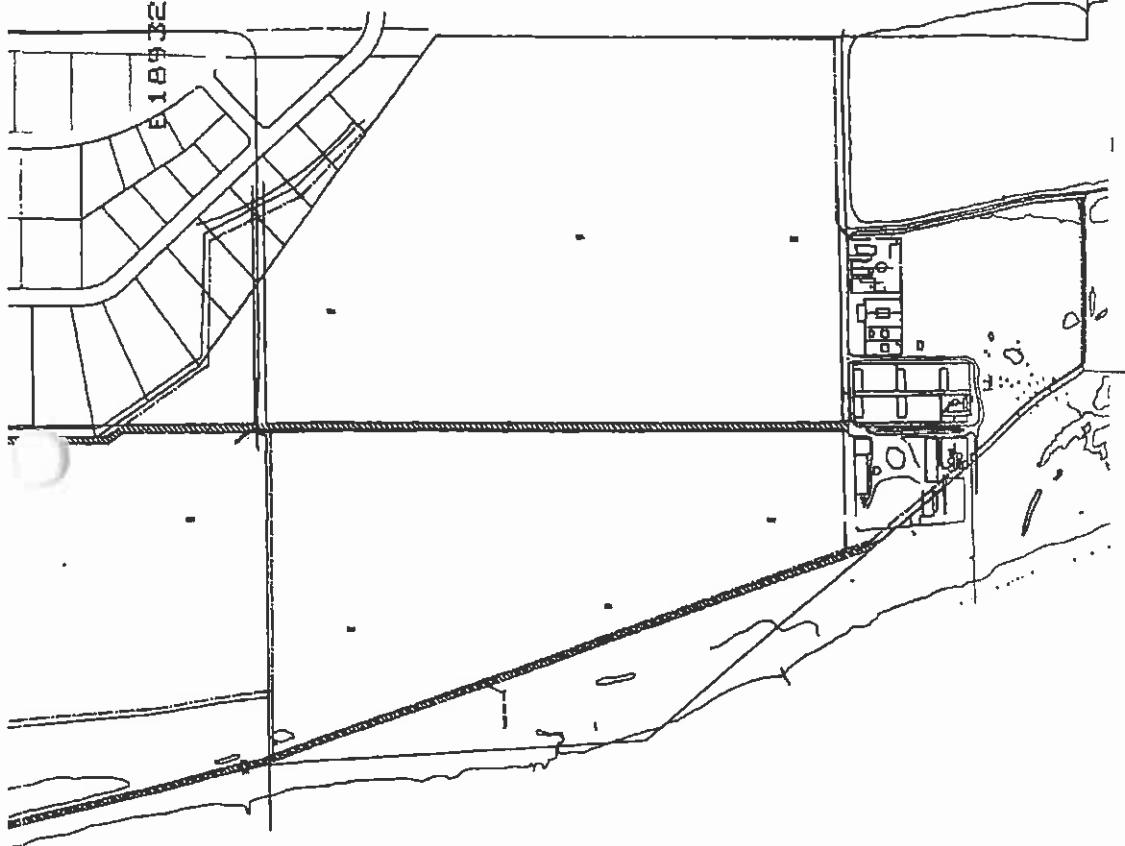
E 184 3293 B 3341 P 1707

TOWNSHIP 3 NORTH RANGE 1 WEST  
SALT LAKE BASE & MERIDIAN  
DAVIS COUNTY, UT

CENTER OF SECTION 22



P1893293 H 3341 P1708



<b>BUFFALO RANCH</b> Dave & Debbie Plummer Farmington, UT	
<b>LOT PLAN</b>	
DATE	BY
DATE	BY

EQUITECH INC. P.O. Box 12503 Salt Lake City, UT 84122 (801) 364-3000	
DATE	DESCRIPTION
DATE	DESCRIPTION



## EXHIBIT "C"

### MAINTENANCE PLAN

E 1893293 B 3341 P 1709

Viking Real Estate, L.L.C. ("Viking"), Owner of approximately 286.778 acres in West Farmington City known as "Buffalo Ranch," as shown in Exhibit "A," is Grantor of this Conservation Easement which covers approximately 93 acres of Owner's property as shown in Exhibit "A," and shall be solely responsible for all maintenance conducted on the property covered by this Conservation Easement, which will include the following tasks:

- Irrigation;
- Weed abatement;
- Mowing of pasture lands;
- Lawn care and landscaping;
- Any other task needed to maintain pasturelands;
- Fence upkeep;
- Road upkeep;
- Building upkeep; and
- Any other task needed to maintain operations thereon.

Either Viking or Buffalo Ranch employees and/or independent contractors commissioned by Viking or Buffalo Ranch will complete and undertake the tasks listed above. Viking will be financially responsible for all maintenance.

Farmington City will remain financially responsible and chargeable for the upkeep and maintenance of all trails endowed to them by Viking via recorded easements.

EXHIBIT "D"

LIST OF ACCEPTED ENCUMBRANCES

1710 page

## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

**S U B J E C T:** Corrio Construction to Construct the Community Well House Addition

### **ACTION TO BE CONSIDERED:**

Approve the contract and bid from Corrio Construction for the construction of the Community Well House Addition in the amount of \$522,680 to be paid from the water impact fee fund.

### **GENERAL INFORMATION:**

See enclosed staff report prepared by Chad Boshell.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON CITY

## City Council Staff Report

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

To: Honorable Mayor and City Council

From: Chad Boshell, City Engineer

Date: January 19, 2016

SUBJECT: **CONSIDER APPROVAL OF CORRIO CONSTRUCTION TO CONSTRUCT  
THE COMMUNITY WELL HOUSE ADDITION**

### RECOMMENDATION

Approve the contract and bid from Corrio Construction for the construction of the Community Well House Addition in the amount of \$522,680.00 to be paid from the water impact fee fund.

### BACKGROUND

The City received 8 bids for the Community Well House Addition Project ranging from \$522,680 to \$722,437. The project will build an addition to the community center well and install ozone equipment which will remove the color and smell from the water. City staff recommends awarding Corrio Construction the project. Attached is the contract between the City and the Contractor to do the work.

### SUPPLEMENTAL INFORMATION

1. Bid Tabulation
2. Contract (2 Copies)

Respectively Submitted

Chad Boshell  
City Engineer

Reviewed and Concur

Dave Millheim  
City Manager



1975 North Main Street, Suite #3  
Layton, UT 84041  
Phone: (801) 773-3155  
Fax: (801) 773-3156

## Bid Tabulation

CLIENT: Farmington City  
PROJECT: Community Welfare House Addition  
TITLE: Bid Tabulation  
BASIS: Bids  
HHS# CMT HWS# P E  
DATE: 12/17/13

Item	Qty	Description	Gentry Construction		Vanguard		Counterspace Constr.		Mature Brothers Const.		COP Construction		Whitaker Construction		Hite Construction		Terry R. Bruffertson	
			Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
1	1	Mobile/Station / Demolition	\$40,300.00	\$40,300.00	\$7,500.00	\$7,500.00	\$20,850.00	\$20,850.00	\$18,865.00	\$18,865.00	\$43,545.00	\$43,545.00	\$37,700.00	\$37,700.00	\$57,500.00	\$57,500.00	\$32,120.00	\$32,120.00
2	1	Demolition	\$4,110.00	\$4,110.00	\$6,000.00	\$6,000.00	\$18,810.00	\$18,810.00	\$5,032.00	\$5,032.00	\$2,540.00	\$2,540.00	\$9,310.00	\$9,310.00	\$6,500.00	\$6,500.00	\$9,805.00	\$9,805.00
3	520	Building	\$122.12	\$63,502.40	\$170.00	\$88,400.00	\$108.00	\$56,160.00	\$157.33	\$81,813.60	\$150.00	\$78,000.00	\$120.34	\$62,368.00	\$150.00	\$78,000.00	\$205.15	\$106,678.00
4	1	Minor Work	\$32.80	\$32.80	\$110.00	\$110.00	\$11.00	\$11.00	\$31.73	\$31.73	\$88.50	\$88.50	\$33.50	\$33.50	\$35.20	\$35.20	\$32,400.00	\$32,400.00
5	1,000	Four Corner Siding	\$28.43	\$28,430.00	\$4.50	\$4,500.00	\$11.00	\$11,000.00	\$27.51	\$27,510.00	\$16.75	\$16,750.00	\$7.60	\$7,600.00	\$30.00	\$30,000.00	\$6.10	\$6,100.00
6	1	Electrical / EACOM	\$20,460.00	\$20,460.00	\$27,500.00	\$27,500.00	\$39,478.00	\$39,478.00	\$35,257.00	\$35,257.00	\$31,000.00	\$31,000.00	\$34,800.00	\$34,800.00	\$37,500.00	\$37,500.00	\$37,760.00	\$37,760.00
7	1	Mechanical	\$21,710.00	\$21,710.00	\$23,500.00	\$23,500.00	\$21,372.00	\$21,372.00	\$27,431.00	\$27,431.00	\$20,500.00	\$20,500.00	\$17,600.00	\$17,600.00	\$21,000.00	\$21,000.00	\$25,300.00	\$25,300.00
8	1	Underground Piping/Water/Fire of	\$4,470.00	\$4,470.00	\$8,600.00	\$8,600.00	\$3,760.00	\$3,760.00	\$6,170.00	\$6,170.00	\$10,500.00	\$10,500.00	\$10,700.00	\$10,700.00	\$5,250.00	\$5,250.00	\$28,608.36	\$28,608.36
9	1	Building	\$41,330.00	\$41,330.00	\$34,000.00	\$34,000.00	\$37,300.00	\$37,300.00	\$54,737.00	\$54,737.00	\$40,815.00	\$40,815.00	\$118,500.00	\$118,500.00	\$48,000.00	\$48,000.00	\$108,660.45	\$108,660.45
10	1	Storm Drainage System	\$558,180.00	\$558,180.00	\$322,000.00	\$322,000.00	\$301,704.00	\$301,704.00	\$283,144.00	\$283,144.00	\$315,165.00	\$315,165.00	\$285,000.00	\$285,000.00	\$209,500.00	\$209,500.00	\$301,722.53	\$301,722.53
11	1	Storm Drainage System	\$1,850.00	\$1,850.00	\$1,300.00	\$1,300.00	\$3,897.00	\$3,897.00	\$2,318.00	\$2,318.00	\$2,400.00	\$2,400.00	\$2,210.00	\$2,210.00	\$2,000.00	\$2,000.00	\$2,484.00	\$2,484.00
12	1	Storm Drainage System	\$32.00	\$32.00	\$20.00	\$20.00	\$82.00	\$82.00	\$28.40	\$28.40	\$48.00	\$48.00	\$34.50	\$34.50	\$30.00	\$30.00	\$35.40	\$35.40
13	150	Storm Drainage System	\$3.13	\$469.50	\$7.00	\$1,050.00	\$20.00	\$3,000.00	\$21.28	\$3,192.00	\$13.50	\$2,025.00	\$10.50	\$1,575.00	\$4.00	\$600.00	\$8.42	\$1,263.00
14	1	Storm Drainage System	\$1,010.00	\$1,010.00	\$800.00	\$800.00	\$2,344.00	\$2,344.00	\$2,535.00	\$2,535.00	\$2,400.00	\$2,400.00	\$1,730.00	\$1,730.00	\$2,000.00	\$2,000.00	\$2,534.00	\$2,534.00
15	1	Storm Drainage System	\$3,010.00	\$3,010.00	\$6,000.00	\$6,000.00	\$7,273.00	\$7,273.00	\$3,845.00	\$3,845.00	\$5,200.00	\$5,200.00	\$9,440.00	\$9,440.00	\$5,500.00	\$5,500.00	\$7,347.60	\$7,347.60
16	1	Storm Drainage System	\$1,120.00	\$1,120.00	\$340.00	\$340.00	\$2,032.00	\$2,032.00	\$1,166.00	\$1,166.00	\$1,600.00	\$1,600.00	\$895.00	\$895.00	\$7,800.00	\$7,800.00	\$1,017.50	\$1,017.50
17	270	Temporary Chain Link Road Fence	\$3.66	\$988.20	\$4.00	\$1,080.00	\$7.00	\$1,890.00	\$2.85	\$765.00	\$3.50	\$945.00	\$4.00	\$1,080.00	\$4.00	\$1,080.00	\$5.79	\$1,552.20
18	1	Storm Drainage System	\$503,810.00	\$503,810.00	\$335,820.00	\$335,820.00	\$557,872.00	\$557,872.00	\$560,783.00	\$560,783.00	\$560,000.00	\$560,000.00	\$591,553.00	\$591,553.00	\$409,420.00	\$409,420.00	\$447,097.42	\$447,097.42
A-1	1	Storm Drainage System	\$18,870.00	\$18,870.00	\$28,000.00	\$28,000.00	\$31,892.00	\$31,892.00	\$20,894.00	\$20,894.00	\$26,822.00	\$26,822.00	\$29,500.00	\$29,500.00	\$25,000.00	\$25,000.00	\$25,340.44	\$25,340.44
Total Bid Amount:				\$572,640.00		\$564,838.20		\$568,884.00		\$581,717.00		\$606,822.00		\$611,553.00		\$554,420.00		\$728,437.85

## AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between Farmington City, hereinafter called "OWNER" and Corrio Construction doing business as a corporation (corporation, partnership, individual) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction for the Community Well House Addition.
2. The CONTRACTOR will furnish all of the materials, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein.
3. The CONTRACTOR will commence the work required by the PROJECT MANUAL within ten (10) calendar days after the date of the NOTICE TO PROCEED and will complete the same work before 120 consecutive calendar days for the entire project and 90 consecutive days for the structure, all exterior finishes, grading, sitework, and delivery all heavy equipment unless the period for completion is extended otherwise by the PROJECT MANUAL.
4. The CONTRACTOR agrees to perform all of the work described in the PROJECT MANUAL and comply with the terms therein for the sum of \$ 522,680.00 as shown in the BID SCHEDULE for items 1-17 and contact tank item A-1.
5. The term "PROJECT MANUAL" means and includes the following:
  - (A) ADVERTISEMENT FOR BIDS
  - (B) INFORMATION FOR BIDDERS
  - (C) BID PROPOSAL, LIST OF SUBCONTRACTORS, MAJOR MATERIAL SUPPLIERS INFORMATION, BID SCHEDULE
  - (D) BID BOND, SUBCONTRACTORS CERTIFICATION, CONTRACTOR'S QUALIFICATIONS STATEMENT
  - (E) NOTICE OF AWARD
  - (F) AGREEMENT
  - (G) CONSTRUCTION BOND
  - (H) PAYMENT BOND
  - (I) NOTICE TO PROCEED
  - (J) PARTIAL PAYMENT ESTIMATE
  - (K) CHANGE ORDER
  - (L) GENERAL CONDITIONS
  - (M) SUPPLEMENTAL GENERAL CONDITIONS  
Exhibit A
  - (N) TECHNICAL PROVISIONS prepared by Advanced Environmental Engineering
  - (O) DRAWINGS prepared by OWNER and Advanced Environmental Engineering dated September 18, 2015.
  - (P) ADDENDA:  
No. 1, dated 12/11, 2015  
No. \_\_\_\_\_, dated \_\_\_\_\_, 20
6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the PROJECT MANUAL.



7. This AGREEMENT shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this AGREEMENT in ( 3 Copies ) each of which shall be deemed an original on the date first above written.

OWNER:

Farmington City

BY \_\_\_\_\_

Name \_\_\_\_\_

(Please Print or Type)

Title \_\_\_\_\_

(SEAL)  
ATTEST:

\_\_\_\_\_  
Name \_\_\_\_\_

(Please Type)

Title: \_\_\_\_\_

CONTRACTOR:

\_\_\_\_\_  
BY \_\_\_\_\_

Name \_\_\_\_\_

(Please Print or Type)

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Employer Identification Number \_\_\_\_\_

Telephone Number \_\_\_\_\_

(SEAL)  
ATTEST:

\_\_\_\_\_  
Name \_\_\_\_\_

(Please Print or Type)

Title: \_\_\_\_\_

**BID SCHEDULE**  
Community Well House Addition

Bidder must complete all Bid Items to be considered responsive. BIDDERS must satisfy themselves of the accuracy of the estimated quantities in the BID SCHEDULE by examination of the site and review of the PROJECT MANUAL. The BIDDERS are notified that the quantities listed are estimates taken from aerial photos and are not exact. After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done. The OWNER reserves the right to reject all bids or any individual bid items. Bids will be evaluated on OWNER'S selected bid items. By signing the Bid Schedule, the Bidder acknowledges and accepts these terms.

Bid Schedule					
ITEM NUMBER	ITEM	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL COST
1	Mobilization / Demobilization	L.S.	1	40,300	40,300
2	Demolition	L.S.	1	4,110	4,110
3	Building	S.F.	520	<del>122.12</del> 122.12	63,500
4	Veneer Stone	S.F.	150	32.60	4,890
5	Fiber Cement Siding	S.F.	1,000	28.43	28,430
6	Electrical/ SCADA	L.S.	1	26,460	26,460
7	Mechanical	L.S.	1	21,710	21,710
8	Underground Piping/Valves/Fittings w/ Bedding	L.S.	1	4,470	4,470
9	Building Piping/Valves/Fittings	L.S.	1	41,330	41,330
10	Ozone Oxidation System	L.S.	1	258,190	258,190
11	3'x3'x3' Precast Concrete Catch Basin w/ Grate	EA.	1	1,850	1,850
12	10" ADS Line Floor Drain	L.F.	50	32.20	1,610
13	4" Exterior Concrete	S.F.	150	5.73	860

Bid Schedule					
ITEM NUMBER	ITEM	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL COST
14	Storm Drain Outlet (2'x2'x3' Concrete Catch Basin w/ Grate)	L.S.	1	1,010	1,010
15	Epoxy Paint (Piping and Floor)	L.S.	1	3,010	3,010
16	SWPPP Implementation	L.S.	1	1,120	1,120
17	6' Temporary Chain Link Panel Fence	L.F.	270	3 <sup>56</sup>	960
TOTAL BID AMOUNT		503,810			
TOTAL BID AMOUNT (WRITTEN)		Five Hundred Three Thousand, Eight Hundred Ten			

Contact Tank Options						
ITEM NUMBER	ITEM	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL COST	
A-1	7' Diameter Stainless Steel Contact Tank	L.S.	1	18,870	18,870	
A-2	5' Diameter Stainless Steel Contact Tank	L.S.	1	13,810	13,810	

COMPANY NAME: Corrio Construction, Inc

BIDDERS NAME: Russ Nelson

SIGNATURE: Russell A Nelson

DATE: 12/17/15

## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

**S U B J E C T: Public vs. Private Streets – Meadows at City Park (Discussion Only)**

### **ACTION TO BE CONSIDERED:**

A vote is not anticipated regarding this item, it is intended for discussion purposes only in order to receive guidance from the Mayor and City Council.

### **GENERAL INFORMATION:**

See enclosed staff report prepared by David Petersen.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council

From: David E. Petersen, Community Development Director

Date: January 19, 2016

SUBJECT: **PUBLIC VS. PRIVATE STREETS--DISCUSSION ITEM  
MEADOWS AT CITY PARK**

### RECOMMENDATION

A vote is not anticipated regarding this item, it is intended for discussion purposes only in order to receive guidance from the Mayor and City Council.

### BACKGROUND

The first phase of the Meadows at City Park (previously known as Nicholls Nook PUD) received final plat approval from the City Council on July 7, 2009. Later, on July 6, 2010, the developer entered into a development agreement memorializing the same, including additional standards and conditions related thereto. One of which, the proposed r.o.w. for the project shall be a public street. Public Works is now proposing that the City Council work with the current developer to reconsider this standard and create a private street instead.

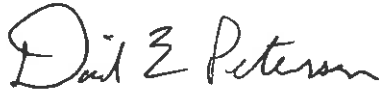
The right-of-way boundary ends at back of curb and the project is designed in such a way that there is no park strip and hence no place to stack snow only on private property and private driveways. This may become a perpetual issue for the Public Works Department in the future. The street, whether private or public, will be built to City standards which reduces the risk of failure in the future. And other similar situations exist (i.e. private street built to City Standards, higher density development, no park strip, HOA maintained and plowed, etc.) resulting in no complaints or issues. One of these is Farmington Station at approximately 150 South 200 East on the north side of the road (see attached vicinity map).

Due to the time period that has elapsed between the approval in 2010 and now, we feel it appropriate to address this issue before the problem arises.

**Supplementary Information**

1. Meadows and City Park site plan.
2. Vicinity maps

Respectively Submitted

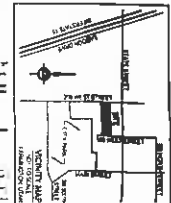
A handwritten signature in black ink that reads "David E. Petersen". The signature is written in a cursive style with a large, looped "D" and a stylized "P".

David Petersen  
Community Development Director

Review and Concur

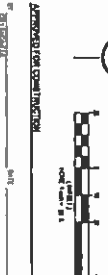
A handwritten signature in blue ink that reads "Dave Millheim". The signature is written in a cursive style with a large, looped "D" and a stylized "M".

Dave Millheim  
City Manager



**ENGIN**  
 THE BROADBAND PROVIDER  
 LAYTON  
 1401 W. 48th Ave. Ste. 20  
 Lyons, UT 84045  
 Phone: 801.471.1100  
 FAX: 801.471.1100  
 E-MAIL: LAYTON@ENGIN.COM  
 WWW: WWW.ENGIN.COM  
 10/15/95

- a. All questions for this section should be answered.
- b. An answer that contains only a definition of a term is not sufficient.
- c. An answer that contains only a definition of a term is not sufficient.
- d. An answer that contains only a definition of a term is not sufficient.
- e. An answer that contains only a definition of a term is not sufficient.
- f. An answer that contains only a definition of a term is not sufficient.
- g. An answer that contains only a definition of a term is not sufficient.
- h. An answer that contains only a definition of a term is not sufficient.
- i. An answer that contains only a definition of a term is not sufficient.
- j. An answer that contains only a definition of a term is not sufficient.
- k. An answer that contains only a definition of a term is not sufficient.
- l. An answer that contains only a definition of a term is not sufficient.
- m. An answer that contains only a definition of a term is not sufficient.
- n. An answer that contains only a definition of a term is not sufficient.
- o. An answer that contains only a definition of a term is not sufficient.
- p. An answer that contains only a definition of a term is not sufficient.
- q. An answer that contains only a definition of a term is not sufficient.
- r. An answer that contains only a definition of a term is not sufficient.
- s. An answer that contains only a definition of a term is not sufficient.
- t. An answer that contains only a definition of a term is not sufficient.
- u. An answer that contains only a definition of a term is not sufficient.
- v. An answer that contains only a definition of a term is not sufficient.
- w. An answer that contains only a definition of a term is not sufficient.
- x. An answer that contains only a definition of a term is not sufficient.
- y. An answer that contains only a definition of a term is not sufficient.
- z. An answer that contains only a definition of a term is not sufficient.











Farmington  
Station  
←



## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

**S U B J E C T:** Review the Existing Sidewalk Inventory around the New Elementary and High Schools

### ACTION TO BE CONSIDERED:

Discussion only

### GENERAL INFORMATION:

See enclosed staff report prepared by Chad Boshell.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON CITY

## City Council Staff Report

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

To: Honorable Mayor and City Council

From: Chad Boshell, City Engineer

Date: December 15, 2015

SUBJECT: REVIEW THE EXISTING SIDEWALK INVENTORY AROUND THE NEW  
ELEMENTARY AND HIGH SCHOOLS

### RECOMMENDATION

DISCUSSION ONLY – Receive direction from City Council on sidewalk priorities, Councilmember Mellor asked this be placed on the agenda.


### BACKGROUND

Due to resident and City staff concern a sidewalk inventory has been completed for a ½ mile radius around the new elementary and high schools. There are significant portions of sidewalk that are missing in potential pedestrian school routes. Some segments are impact fee eligible while others will be installed by the school district or developers. There are many portions of sidewalk that if installed will need to be funded by the City with possible pioneering agreements established. Attached is a map which shows the missing sidewalk and staff suggested priorities.


### SUPPLEMENTAL INFORMATION

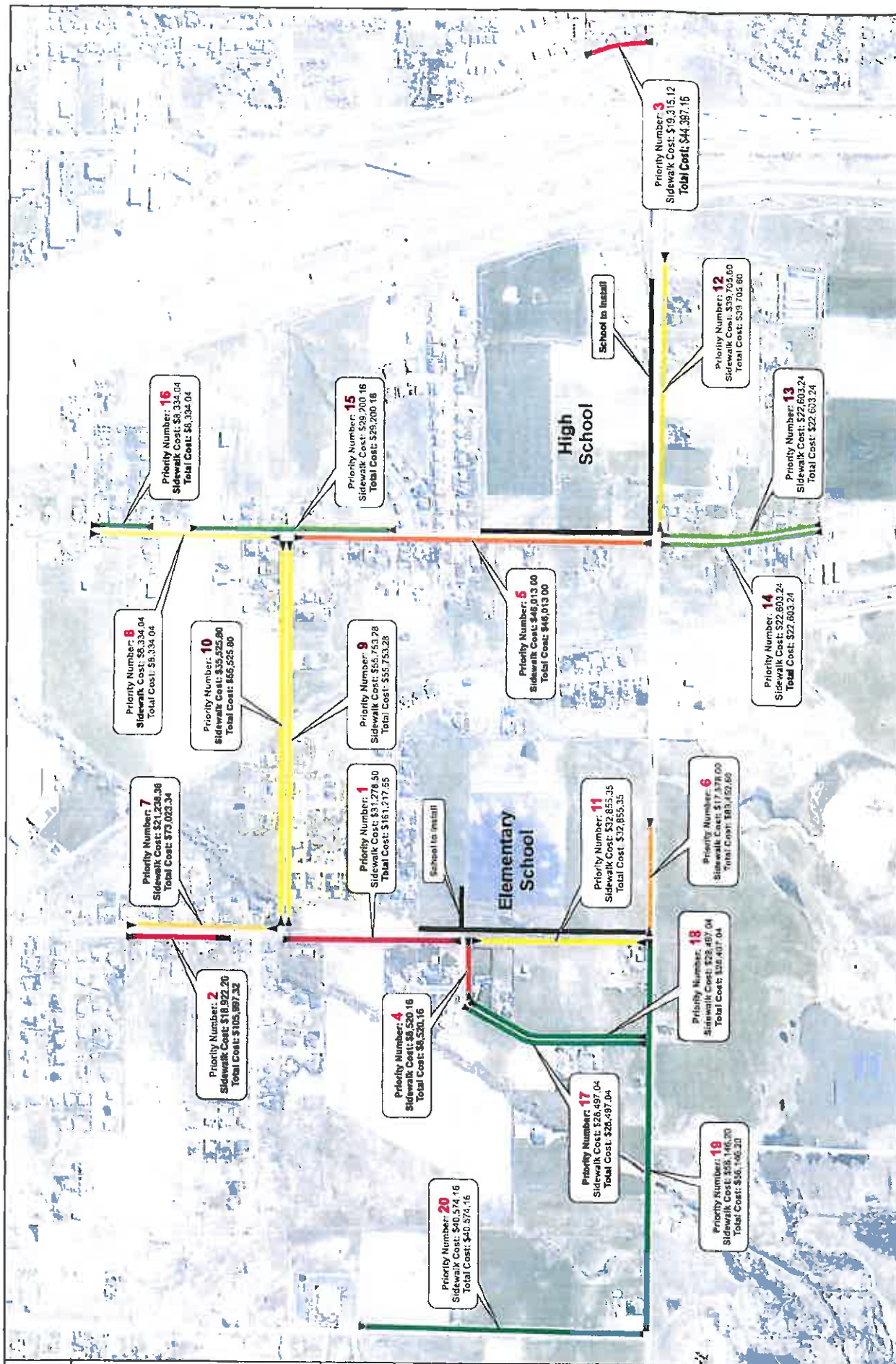
1. Map

Respectively Submitted

  
Chad Boshell  
City Engineer

Reviewed and Concur

  
Dave Millheim  
City Manager





## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

### **SUBJECT: Minute Motion Approving Summary Action List**

1. Clark Lane Apartments Improvements Agreement
2. East Park Lane Subdivision Improvements Agreement
3. Approval of Minutes from City Council held January 5<sup>th</sup>
4. Public Improvements Agreement with Davis School District and Davis County for Road and Culvert Work

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council

From: Ken Klinker, Planning Department

Date: January 19, 2016

**SUBJECT: CLARK LANE APARTMENTS IMPROVEMENTS AGREEMENT**

### RECOMMENDATION

Approve the Farmington City Improvements Agreement (Escrow Deposit Form) between Avanti Farmington, LLC and Bank of Utah for Clark Lane Apartments.

### BACKGROUND

The bond estimate for the Clark Lane Apartments is \$317,188.00 which includes a 10% warranty bond. Avanti Farmington, LLC has submitted an Escrow Deposit Form Improvements Agreement with Bank of Utah to administer an escrow account for this project in the same amount.

This bond will be released as improvements are installed by the developer and inspected by the City. Once all improvements are installed and inspected, all the bond except the warranty amount will be released. After a warranty period of 1 year, the warranty bond will be released once all items are accepted as satisfactory by the City.

Respectfully submitted,

Ken Klinker  
Planning Department

Review and Concur,

Dave Millheim  
City Manager

**FARMINGTON CITY  
IMPROVEMENTS AGREEMENT**

**(ESCROW DEPOSIT FORM)**

**THIS AGREEMENT** is made by and between Avanti Farmington, LLC (hereinafter "Developer"), whose address is 1798 W 5150 S. Ste. 103, Roy, UT 84067, Farmington City, a municipal corporation of the State of Utah (hereinafter "City"), whose address is 160 South Main St., P.O. Box 160, Farmington, Utah, 84025-0160, and Bank of Utah a Utah or Federally chartered Bank or Savings and Loan Association authorized to do business in the State of Utah, whose address is 2605 Washington Blvd., Ogden, UT 84401, (the "Depository").

**WHEREAS**, Developer desires to subdivide and/or to receive a permit to develop certain property located within the City, said development to be known as Clark Lane Apartments, located at approximately 650 W State Street in Farmington City, and

**WHEREAS**, the City will not approve the subdivision or issue a permit unless Developer promises to install and warrant certain improvements as herein provided and security is provided for that promise as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Installation of Improvements.** The Developer agrees to install all improvements required by the City as specified in the bond estimate prepared by the City for Developer's project which is attached hereto as Exhibit "A", (the "Improvements"), precisely as shown on the plans, specifications, and drawings previously reviewed and approved by the City in connection with the above-described project, and in accordance with the standards and specifications established by the City, within 12 months from the date of this Agreement. Developer further agrees to pay the total cost of obtaining and installing the Improvements, including the cost of acquiring easements.

2. **Dedication.** Where dedication is required by the City, the Developer shall dedicate to the City the areas shown on the subdivision or development plat as public streets and as public easements, provided however, that Developer shall indemnify the City and its representatives from all liability, claims, costs, and expenses of every nature, including attorneys fees which may be incurred by the City in connection with such public streets and public easements until the same are accepted by the City following installation and final inspection of all of the Improvements and approval thereof by the City.

3. **Escrow.** The Developer and the Depository hereby acknowledge that an account (the "Account") has been established at the Depository in the amount of \$317,188 (the "Escrow Amount"), which the Developer and the City stipulate to be a reasonable preliminary estimate of the cost of the Improvements, together with 20% of such cost to cover contingencies and to secure the warranty of this Agreement. The Account is identified by the number 21213960. The Developer and the Depository further agree that if (1) the Improvements are not completed as required by this Agreement within the time period specified in Paragraph 1 above, or if (2) the Improvements are not installed strictly in accordance with Paragraph 1 above and written notice of the deficiency has been given to the Developer, who has failed to remedy the deficiency within 10 days after the notice is sent, then in either event the City may withdraw from the account all or any part of the Escrow Amount, in a single or in multiple withdrawals. The Depository agrees to retain

funds necessary for such a withdrawal in the Account. Withdrawals from the Account by the City may be effected by one or more sight drafts signed by the Mayor in the form attached as Exhibit "B", or by other instrument appropriate to the purpose. Interest shall accrue to the City and be payable by the Depository at the rate of 20% per annum beginning at the date on which payment of such a sight draft, properly signed, is refused by the Depository. The City shall not be liable for the payment of any fee or service charge incurred in connection with the Account. The Depository acknowledges sufficient consideration for its promises in the form of fees and fund deposits received from Developer.

4. **Progress Payments.** The City agrees to allow payments from the Account as the work progresses as provided herein. The City shall, when requested in writing, inspect the construction, review any necessary documents and information, and determine if the work completed complies with City construction standards and requirements, and review the bond estimate in Exhibit "A". After receiving and approving the request, the City shall, in writing, authorize disbursement to the Developer from the Account in the amount of such estimate provided that if the City does not agree with the request, the City and Developer shall meet and the Developer shall submit any additional estimate information necessary. Except as provided in this Paragraph or in Paragraphs 4 through 6 inclusive, the Depository shall not release or disburse any funds from the Account.

5. **Refund or Withdrawal.** In the event the City determines it is necessary to withdraw funds from the Account to complete construction of Improvements, the City may withdraw all or any part of the Escrow Amount and may cause the Improvements (or any part of them) to be constructed or completed using the funds received from the account. Any funds not expended in connection with the completion of said Improvements by the City shall be refunded to Developer upon completion of the Improvements, less an additional 15% of the total funds expended by the City, which shall be retained by the City as payment for its overhead and costs expended by the City's administration in completing the Improvements.

6. **Preliminary Release.** At the time(s) herein provided, the City may authorize release all funds in the Account, except 10% of the estimated cost of the Improvements, which shall be retained in the Account until final release pursuant to the next Paragraph. Said 10% shall continue as security for the performance by the Developer of all remaining obligations of this Agreement, including the warranty, and may be withdrawn by the City as provided in Paragraph 5 above for any breach of such an obligation. The release provided for in this Paragraph shall occur when the City certifies that the Improvements are complete, which shall be when the Improvements have been installed as required and fully inspected and approved by the City, and after "as-built" drawings have been supplied as required.

7. **Final Release.** Upon full performance of all of Developer's obligations pursuant to this Agreement, including the warranty obligations of Paragraph 26, the City shall notify the Depository and the Developer in writing of the final release of the Account. After giving such notice, the City shall relinquish claims and rights in the Account.

8. **Non-Release of Developer's Obligations.** It is understood and agreed between the parties that the establishment and availability to the City of the Account as herein provided, and any withdrawals from the Account by the City shall not constitute a waiver or estoppel against the City and shall not release or relieve the Developer from its obligation to install and fully pay for the Improvements as required in Paragraph 1 above, and the right of the City to withdraw from the Account shall not affect any rights and remedies of the City against the Developer for breach of any covenant herein, including the covenants of Paragraph 1 of this Agreement. Further, the Developer



agrees that if the City withdraws from the Account and performs or causes to be performed the installation or any other work required of the Developer hereunder, then any and all costs incurred by the City in so doing which are not collected by the City by withdrawing from the Account shall be paid by the Developer, including administrative, engineering, legal, and procurement fees and costs.

9. **Connection and Maintenance.** Upon performance by Developer of all obligations set forth in this Agreement and compliance with all applicable ordinances, resolutions, rules, and regulations of the City, whether now or hereafter in force, including payment of all connection, review, and inspection fees, the City shall permit the Developer to connect the Improvements to the City's water and storm drainage systems and shall thereafter utilize and maintain the Improvements to the extent and in the manner now or hereafter provided in the City's regulations.

10. **Inspection.** The Improvements, their installation, and all other work performed by the Developer or its agents pursuant to this Agreement shall be inspected at such times as the City may reasonably require and prior to closing any trench containing such Improvements. The City shall have a reasonable time of not less than 24 hours after notice in which to send its representatives to inspect the Improvements. Any required connection and impact fees shall be paid by the Developer prior to such inspection. In addition, all inspection fees required by the ordinances and resolutions shall be paid to the City by the Developer prior to inspection.

11. **Ownership.** Off-site Improvements covered herein shall become the property of the City upon final inspection and approval of the Improvements by the City and the Developer shall thereafter advance no claim or right of ownership, possession, or control of the Improvements.

12. **As-Built Drawings.** The Developer shall furnish to the City, upon completion of the Improvements, drawings showing the Improvements, actual location of water and sewer laterals including survey references, and any related structures or materials as such have actually been constructed by the Developer. The City shall not be obligated to release the Account until as-built drawings have been provided to the City.

13. **Amendment.** Any amendment, modification, termination, or rescission (other than by operation of law) which affects this Agreement shall be made in writing, signed by the parties, and attached hereto.

14. **Successors.** No party shall assign or transfer any rights under this Agreement without the prior written consent of the other first obtained, which consent shall not be unreasonably withheld. When validly assigned or transferred, this Agreement shall be binding upon and inure to the benefit of the legal representatives, successors and assigns of the parties hereto.

15. **Notices.** Any notice required or desired to be given hereunder shall be deemed sufficient if sent by certified mail, postage prepaid, addressed to the respective parties at the addresses shown in the preamble.

16. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

17. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

18. **Counterparts.** The fact that the parties hereto execute multiple but identical counterparts of this Agreement shall not affect the validity or efficacy of their execution, and such counterparts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

19. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

20. **Captions.** The captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

21. **Integration.** This Agreement, together with its exhibits and the approved plans and specifications referred to, contains the entire and integrated agreement of the parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of any force or effect.

22. **Attorney's Fees.** In the event either party hereto defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, incurred by the other party in enforcing its rights hereunder whether incurred through litigation or otherwise.

23. **Other Bonds.** This Agreement and the Account do not alter the obligation of the Developer to provide other bonds under applicable ordinances or rules of any governmental entity having jurisdiction over the Developer. The furnishing of security in compliance with the requirements of other ordinances or rules of other jurisdictions shall not adversely affect the ability of the City to draw on the Account as provided herein.

24. **Time of Essence.** The parties agree that time is of the essence in the performance of all duties herein.

25. **Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit. An unattached exhibit is available from the records of the parties.

26. **Warranty.** The Developer hereby warrants that the Improvements installed, and every part hereof, together with the surface of the land and any improvements thereon restored by the Developer, shall remain in good condition and free from all defects in materials, and/or workmanship during the Warranty Period, and the Developer shall promptly make all repairs, corrections, and/or replacements for all defects in workmanship, materials, or equipment during the Warranty Period, without charge or cost to the City. The City may at any time or times during the Warranty Period inspect, photograph, or televise the Improvements and notify the Developer of the condition of the Improvements. The Developer shall thereupon immediately make any repairs or corrections required by this Paragraph. For purposes of this Paragraph, "Warranty Period" means the one-year period beginning on the date on which the Improvements are certified complete by the City.

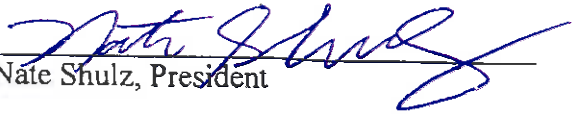
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**DEVELOPER:**

AVANTI FARMINGTON LLC, a limited liability company

By: Castle Creek Homes, LLC, its Manager

By: Shulz Construction, Inc., its Member

By:   
Nate Shulz, President

By: Mike Schultz, Inc., its Member

By:   
Michael N. Schultz, President

**DEPOSITORY:**

BANK OF UTAH

By: 

Its: Vice President

**CITY:**

FARMINGTON CITY CORPORATION

By: \_\_\_\_\_  
H. James Talbot, Mayor

**ATTEST:**

\_\_\_\_\_  
Holly Gadd, City Recorder

## DEVELOPERS ACKNOWLEDGEMENT

(Complete if **Developer** is an **Individual**)

STATE OF UTAH )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, \_\_\_\_\_, the signer(s) of the foregoing instrument who duly acknowledged to me that he/she/they executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, \_\_\_\_\_

\*\*\*\*\*

(Complete if **Developer** is a **Corporation**)

STATE OF UTAH )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he/she is the \_\_\_\_\_ of \_\_\_\_\_ a \_\_\_\_\_ corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, \_\_\_\_\_

\*\*\*\*\*

(Complete if **Developer** is a **Partnership**)

STATE OF UTAH )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_ who being by me duly sworn did say that he/she/they is/are the \_\_\_\_\_ of \_\_\_\_\_, a partnership, and that the foregoing instrument was duly authorized by the partnership at a lawful meeting held by authority of its by-laws and signed in behalf of said partnership.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, \_\_\_\_\_

\*\*\*\*\*

(Complete if Developer is a Limited Liability Company)

STATE OF UTAH )

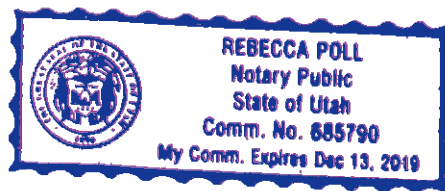
COUNTY OF Weber ) : ss.

On this 16 day of January, 2016, personally appeared before me Nate Shultz & Michael N. Schultz who being by me duly sworn did say that ~~he or she~~ <sup>they are</sup> is the ~~signers~~ of Avanti Farmington LLC, a limited liability company, and that the foregoing instrument was duly authorized by the Members/Managers of said limited liability company.

Rebecca Poll

NOTARY PUBLIC

Residing in Ogden County, Weber.

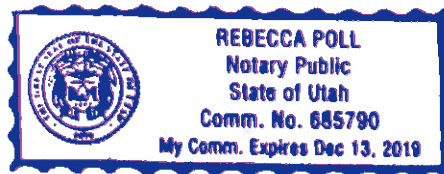


DEPOSITORY ACKNOWLEDGEMENT

STATE OF UTAH )  
 )  
COUNTY OF Weber ) : ss.

On this 6 day of January, 2016, personally appeared before me  
Christina Thurnwald, who being duly sworn did say that he/she is the  
Vice President of Bank of Utah a Utah corporation, and that the foregoing  
instrument was signed in behalf of said corporation by authority of its Board of Directors, and he/she  
acknowledged to me that said corporation executed the same.

Rebecca Poll  
NOTARY PUBLIC  
Residing in Ogden County Weber



CITY ACKNOWLEDGEMENT

STATE OF UTAH )  
 )  
COUNTY OF DAVIS ) : ss.

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me  
H. James Talbot and Holly Gadd, who being by me duly sworn, did say that they are the Mayor and  
City Recorder, respectively, of Farmington City Corporation, and said persons acknowledged to me  
that said corporation executed the foregoing instrument.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in Davis County, Utah

(OR AS SUPPLIED BY BANK)  
EXHIBIT "B"

SIGHT DRAFT

To Drawee

\_\_\_\_\_, Utah \_\_\_\_\_  
\_\_\_\_\_

Pay To The Order Of FARMINGTON CITY CORPORATION on sight the sum of  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_) drawn against Account No.  
\_\_\_\_\_.

FARMINGTON CITY CORPORATION

By: \_\_\_\_\_  
H. James Talbot, Mayor

Clark Lane Apartments  
Bond Estimate  
Revised 12/15/2015

**Storm Drain**

Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%
15" RCP Pipe (Includes Bedding and Fill)	395	LF	\$ 38.00	\$ 15,010	0	0	0
Catch Basin	6	EA	\$ 2,000.00	\$ 12,000	0	0	0
SWPPP	1	LS	\$ 5,000.00	\$ 5,000	0	0	0
<b>Subtotal</b>				<b>\$ 5,000</b>			
<b>10% Warranty Bond</b>				<b>\$ 500</b>			
<b>Total</b>				<b>\$ 5,500</b>			

**Sanitary Sewer**

Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%
Sewer Lateral	8	EA	\$ 1,500.00	\$ 12,000	0	0	0
Connect to Existing	3	EA	\$ 4,500.00	\$ 13,500			
Sewer Manhole	11	EA	\$ 3,000.00	\$ 33,000			
8" SDR-35 PVC Pipe	954	LF	\$ 30.00	\$ 28,620	0	0	0
<b>Subtotal</b>				<b>\$ 12,000</b>			
<b>10% Warranty Bond</b>				<b>\$ 1,200</b>			
<b>Total</b>				<b>\$ 13,200</b>			

**Culinary Water**

Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%
Connect to Existing	2	EA	\$ 4,000.00	\$ 8,000	0	0	0
3" PVC C-900 DR 14 Culinary Water	1280	LF	\$ 34.00	\$ 43,520	0	0	0
8" Valve	6	EA	\$ 1,800.00	\$ 10,800	0	0	0
8" Fittings	8	EA	\$ 1,000.00	\$ 8,000	0	0	0
Water Lateral	8	EA	\$ 1,300.00	\$ 10,400	0	0	0
Fire Hydrant	3	EA	\$ 4,650.00	\$ 13,950	0	0	0
<b>Subtotal</b>				<b>\$ 94,670</b>			
<b>10% Warranty Bond</b>				<b>\$ 9,467</b>			
<b>Total</b>				<b>\$ 104,137</b>			

**Road Improvements**

Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%
Rough Grade	1	LS	\$ 3,000.00	\$ 3,000	0	0	0
Sawcut Asphalt	1902	LF	\$ 3.15	\$ 5,991	0	0	0
Curb and Gutter w/ Base	714	LF	\$ 20.00	\$ 14,280	0	0	0
Sidewalk w/ Base	12428	SF	\$ 4.70	\$ 58,412	0	0	0
ADA Ramp	8	EA	\$ 1,200.00	\$ 9,600	0	0	0
4" Asphalt	28000	SF	\$ 1.75	\$ 49,000	0	0	0
12" Road Base	28000	SF	\$ 1.30	\$ 36,400	0	0	0
<b>Subtotal</b>				<b>\$ 176,683</b>			
<b>10% Warranty Bond</b>				<b>\$ 17,668</b>			
<b>Total</b>				<b>\$ 194,351</b>			

**Total Bond**

**\$ 317,188**

**Cash Deposits**

Item	Quantity	Unit	Unit Cost	Bond Amount
Slurry Seal	28000	SF	\$ 0.20	\$ 5,600
Street Signs	2	EA	\$ 300.00	\$ 600
Street Lights	3	EA	\$ 3,200.00	\$ 9,600





# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council

From: Ken Klinker, Planning Department

Date: January 19, 2016

**SUBJECT: EAST PARK LANE SUBDIVISION IMPROVEMENTS AGREEMENT**  
Letter of Credit No. 886-2

### RECOMMENDATION

Approve the Farmington City Improvements Agreement (Letter of Credit Form) for a letter of credit between Wright Development, LLC and Millcreek Partners LLC and Bank of American Fork for the East Park Lane Subdivision.

### BACKGROUND

The bond estimate for East Park Lane Subdivision is \$420,346.85 which includes a 10% warranty bond. Wright Development, LLC and Millcreek Partners LLC have submitted an Irrevocable Letter of Credit Agreement with a two year term with Bank of American Fork to administer an account for this project in the amount of \$420,346.85.

Once all improvements are installed and inspected, all the Letter of Credit except the warranty amount will be released. After a warranty period of 1 year, the warranty amount will be released once all items are accepted as satisfactory by the City.

Respectfully submitted,

Ken Klinker  
Planning Department

Review and Concur,

Dave Millheim  
City Manager

**FARMINGTON CITY  
IMPROVEMENTS AGREEMENT**

**(LETTER OF CREDIT FORM)**

**THIS AGREEMENT** is made by and between Wright Development Group, Inc and Millcreek Partners, LLC (hereinafter "Developer"), whose address is 1178 Legacy Crossing Boulevard, Centerville, UT 84014, and Farmington City, a municipal corporation of the State of Utah (hereinafter "City"), whose address is 160 South Main, P.O. Box 160, Farmington, Utah, 84025-0160.

**WHEREAS**, Developer desires to subdivide and/or to receive a permit to develop certain property located within the City, said development to be known as East Park Lane Subdivision, located at approximately NWC of Bourne Lane and Lagoon Drive in Farmington City, and

**WHEREAS**, the City will not approve the subdivision or issue a permit unless Developer promised to install and warrant certain improvements as herein provided and security is provided for that promise as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Installation of Improvements.** The Developer agrees to install all improvements required by the City as specified in the bond estimate prepared by the City for Developer's project which is attached hereto as Exhibit "B", (the "Improvements"), precisely as shown on the plans, specifications, and drawings previously reviewed and approved by the City in connection with the above-described project, and in accordance with the standards and specifications established by the City, within 7 months from the date of this Agreement. Developer further agrees to pay the total cost of obtaining and installing the Improvements, including the cost of acquiring easements.

2. **Dedication.** Where dedication is required by the City, the Developer shall dedicate to the City the areas shown on the subdivision or development plat as public streets and as public easements, provided however, that Developer shall indemnify the City and its representatives from all liability, claims, costs, and expenses of every nature, including attorneys fees which may be incurred by the City in connection with such public streets and public easements until the same are accepted by the City following installation and final inspection of all of the Improvements and approval thereof by the City.

3. **Letter of Credit.** Developer hereby delivers to the City an irrevocable, standby letter of credit in the total amount of \$420,346.85, which is attached hereto as Exhibit "A" (the "Credit"). The City may draw upon the Credit to its order as provided in Paragraph 4. The Developer hereby stipulates that the funds of the Credit are not subject to any adverse claim, resulting trust, lien, or set-off. **The time period specified in the Credit shall exceed the time period specified in Paragraph 1 above by at least twelve months.**

4. **Drafts by City.** The City may draw upon the Credit only if, (1) the Improvements are not completed as required by this Agreement within the time period specified in Paragraph 1 above, or if (2) the Improvements are not installed strictly in accordance with Paragraph 1 above, or maintained during the warranty period provided in Paragraph 24 of this agreement and written notice of the deficiency has been given to the Developer, who has failed to remedy the deficiency within 10

days after the notice is sent. In either of these events, the City may draw under the Credit both (1) those amounts necessary to either complete the Improvements as required herein or alter or repair the Improvements to conform to the requirements hereof, and (2) an additional 15% of all other amounts withdrawn to compensate the City for any administrative, engineering, legal procurement, or other services incident to completion of the improvements. The City may draw upon the Credit by one or more sight drafts signed by the Mayor in the form attached as Exhibit "C", or by other instrument appropriate to the purpose. The parties hereby stipulate that the form of the appended sight draft is in all respects sufficient and without objection for the purpose of drawing upon the Credit.

5. **Release.** Upon final inspection and acceptance of all of the Improvements by the City, the City may authorize release of the Credit except 10% of the estimated cost of the Improvements which shall be retained in the Credit, or provided by other acceptable security, for the performance by the Developer of all warranty and other obligations of this Agreement and may be withdrawn by the City as provided in Paragraph 4 in the event of any default by the Developer. Upon full performance of all of Developer's obligations pursuant to this Agreement, including the warranty obligations of Paragraph 24, the City shall in writing release the balance of the Credit or other security.

6. **Non-Release of Developer's Obligations.** It is understood and agreed between the parties that delivery of the Credit as herein provided, and any draft(s) upon the Credit by the City shall not constitute a waiver or estoppel against the City and shall not release or relieve the Developer from its obligation to install and fully pay for the Improvements as required in Paragraph 1 above, and the right of the City to draw upon the Credit shall not affect any rights and remedies of the City against the Developer for breach of any covenant herein, including the covenants of Paragraph 1 of this Agreement. Further, the Developer agrees that if the City draws upon the Credit and performs or causes to be performed the installation required of the Developer hereunder, then any and all costs incurred by the City in so doing which are not collected by the City pursuant to the Credit shall be paid by the Developer, including administrative, engineering, legal, and procurement fees and costs.

7. **Connection and Maintenance.** Upon performance by Developer of all obligations set forth in this Agreement and compliance with all applicable ordinances, resolutions, rules, and regulations of the City, whether now or hereafter in force, including payment of all connection, review, and inspection fees, the City shall permit the Developer to connect the Improvements covered under this agreement to the City's systems and shall thereafter utilize and maintain such Improvements to the extent and in the manner now or hereafter provided in the City's regulations.

8. **Inspection.** The Improvements, their installation, and all other work performed by the Developer or its agents pursuant to this Agreement shall be inspected at such times as the City may reasonably require and prior to closing any trench containing such Improvements. The City shall have a reasonable time of not less than 24 hours after notice in which to send its representatives to inspect the Improvements. Any required connection and impact fees shall be paid by the Developer prior to such inspection. In addition, all inspection fees required by ordinances and resolutions of the City shall be paid to the City by the Developer prior to inspection.

9. **Ownership.** Any Improvements covered herein shall become the property of the City upon final inspection and approval of the Improvements by the City and the Developer shall thereafter advance no claim or right of ownership, possession, or control of the Improvements.

10. **As-Built Drawings.** The Developer shall furnish to the City, upon completion of the Improvements, drawings showing the Improvements, actual location of water and sewer laterals including survey references, and any related structures or materials as such have actually been constructed by the Developer. The City shall not be obligated to release the Credit until drawings have been provided to the City.

11. **Amendment.** Any amendment, modification, termination, or rescission (other than by operation of law) which affects this Agreement shall be made in writing, signed by the parties, and attached hereto.

12. **Successors.** No party shall assign or transfer any rights under this Agreement without the prior written consent of the other first obtained, which consent shall not be unreasonably withheld. When validly assigned or transferred, this Agreement shall be binding upon and inure to the benefit of the legal representatives, successors and assigns of the parties hereto.

13. **Notices.** Any notice required or desired to be given hereunder shall be deemed sufficient if sent by certified mail, postage prepaid, addressed to the respective parties at the addresses shown in the preamble.

14. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

15. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

16. **Counterparts.** The fact that the parties hereto execute multiple but identical counterparts of this Agreement shall not affect the validity or efficacy of their execution, and such counterparts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

17. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

18. **Captions.** The captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

19. **Integration.** This Agreement, together with its exhibits and the approved plans and specifications referred to, contains the entire and integrated agreement of the parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of any force or effect.

20. **Attorney's Fees.** In the event either party hereto defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, incurred by the other party in enforcing its rights hereunder whether incurred through litigation or otherwise.

21. **Other Bonds.** This Agreement and the Credit do not alter the obligation of Developer to provide other bonds under applicable ordinances or rules of any other governmental entity having jurisdiction over the Developer. The furnishing of security in compliance with the requirements of the ordinances or rules of other jurisdictions shall not adversely affect the ability of the City to draw on the Credit as provided herein.

22. **Time of Essence.** The parties agree that time is of the essence in the performance of all duties herein.

23. **Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit. An unattached exhibit is available from the records of the parties.

24. **Warranty.** The Developer hereby warrants that the Improvements installed, and every part hereof, together with the surface of the land and any improvements thereon restored by the Developer, shall remain in good condition and free from all defects in workmanship, materials, and/or equipment during the Warranty Period without charge or cost to the City. The City may at any time or times during the Warranty Period inspect, photograph, or televise the Improvements and notify the Developer of the condition of the Improvements. The Developer shall thereupon immediately make any repairs or corrections required by this Paragraph. For purposes of this Paragraph, "Warranty Period" means the one-year period beginning on the date on which the Improvements are certified complete by the City.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their respective duly authorized representatives this 7th day of December, 2015.

**CITY:**

FARMINGTON CITY CORPORATION

\_\_\_\_\_  
H. James Talbot, Mayor

\_\_\_\_\_  
Holly Gadd, City Recorder

**DEVELOPER:**

WRIGHT DEVELOPMENT GROUP, INC

By: \_\_\_\_\_  
Its: President

Millcreek Partners LLC  
Teton Land Company, L.L.C., Manager

By: \_\_\_\_\_  
Its: Manager

By: \_\_\_\_\_  
Its: Manager

DEVELOPERS ACKNOWLEDGEMENT

(Complete if Developer is an Individual)

STATE OF UTAH )  
 : ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, \_\_\_\_\_, the signer(s) of the foregoing instrument who duly acknowledged to me that he/she/they executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, \_\_\_\_\_

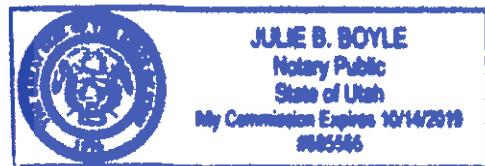
\*\*\*\*\*

(Complete if Developer is a Corporation)

STATE OF UTAH )  
 : ss.  
COUNTY OF Davis )

On this 8 day of December, 2015, personally appeared before me Gary Wright and Spencer Wright, who being by me duly sworn did say that he/she is the Managers of Millcreek Partners and Teton a LLC corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged to me that said corporation executed the same.

Julie B. Boyle  
NOTARY PUBLIC  
Residing in Front Range County, Davis



\*\*\*\*\*

(Complete if Developer is a Partnership)

STATE OF UTAH )  
 : ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_ who being by me duly sworn did say that he/she/they is/are the \_\_\_\_\_ of \_\_\_\_\_, a partnership, and that the foregoing instrument was duly authorized by the partnership at a lawful meeting held by authority of its by-laws and signed in behalf of said partnership.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, \_\_\_\_\_

\*\*\*\*\*

(Complete if Developer is a Limited Liability Company)

STATE OF UTAH                    )  
  : ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me  
\_\_\_\_\_ who being by me duly sworn did say that he or she is the  
\_\_\_\_\_ of \_\_\_\_\_, a limited liability company, and that the  
foregoing instrument was duly authorized by the Members/Managers of said limited liability  
company.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, \_\_\_\_\_

### CITY ACKNOWLEDGEMENT

STATE OF UTAH                    )  
  : ss.  
COUNTY OF DAVIS                )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me H. James Talbot  
and Holly Gadd, who, being by me duly sworn, did say that they are the Mayor and City Recorder,  
respectively, of Farmington City Corporation, and said persons acknowledged to me that said  
corporation executed the foregoing instrument.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in Davis County, Utah

(OR AS SUPPLIED BY BANK)

EXHIBIT "B"

SIGHT DRAFT

To Drawee

\_\_\_\_\_, Utah \_\_\_\_\_

Pay To The Order Of FARMINGTON CITY CORPORATION on sight the sum of  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_) drawn against  
Account No. \_\_\_\_\_.

FARMINGTON CITY CORPORATION

By: \_\_\_\_\_  
H. James Talbot, Mayor





December 7, 2015

IRREVOCABLE LETTER OF CREDIT NO. 886-2

**BENEFICIARY:**

FARMINGTON CITY  
160 S MAIN STREET  
FARMINGTON, UTAH 84014

**EXPIRATION:**

July 7, 2017

**AMOUNT:** USD \$420,346.85

Dear Sir/Madam:

At the request of Wright Development, Inc and Millcreek Partners LLC, 1178 Legacy Crossing Blvd, Centerville, UT 84014, we hereby establish our Irrevocable Letter of Credit in your favor up to an aggregate amount of Four hundred twenty thousand three hundred forty-six and 85/100 Dollars (USD \$420,346.85) to expire at our counters on July 7, 2017. This credit is available for payment against presentation of your draft(s) at sight drawn on Bank of American Fork, a Division of People's Intermountain Bank, 476 W Heritage Park Blvd, Suite 100, Layton, Utah 84041 accompanied by this original Irrevocable Letter of Credit and the following documents:

A statement signed by an authorized representative of the City of Farmington certifying that Wright Development, Inc and Millcreek Partners LLC have not completed the public improvements as required on property known as East Park Lane Subdivision, located at approximately NWC of Bourne Circle and Lagoon Drive, Farmington, Utah 84025 in a timely and/or workmanlike manner.

All drawings must indicate this letter of credit number.

Partial drawings are permitted.

We hereby agree with drawers, endorsers and bona fide holders that all draft(s) drawn under and in compliance with the terms of this letter of credit will be honored upon presentation and delivery of documents to us as specified herein.

This letter of credit is governed by Utah Code Annotated 70A-5-101 ET Seq. 1953 as amended Uniform Customs and Practice Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 and jurisdiction for resolution of disputes arising under this letter of credit lies in the courts of State of Utah.

Sincerely,

Philip H. Gunther  
Senior Vice President


Attached to Letter of Credit No.

CONSENT AND AGREEMENT FOR LETTER OF CREDIT

Wright Development, Inc and Millcreek Partners LLC, hereby consents and agrees to the terms and conditions of the foregoing Letter of Credit, and hereby requests and authorizes Bank of American Fork to establish and issue such Letter of Credit to the Farmington City. In consideration of Bank of American Fork's so doing, Wright Development, Inc and Millcreek Partners LLC shall execute and deliver to Bank of American Fork an "Application Agreement and Note for Commercial Letter of Credit" in form and content acceptable to Bank of American Fork.

Dated: December 7, 2015

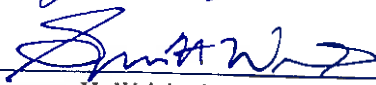
Wright Development, Inc

By:   
Gary M. Wright, President

Millcreek Partners LLC

Teton Land Company, L.L.C., Manager

By:   
Gary M. Wright, Manager

By:   
Spencer H. Wright, Manager

East Park Lane  
Bond Estimate  
Revised 11-2-2015

<b>Storm Drain</b>								
Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%	
18" RCP Pipe (Includes Bedding and Fill)	1768	LF	\$ 44.00	77,792.00	0	0	0	
24" RCP Pipe (Includes Bedding and Fill)	60	LF	\$ 50.00	3,000.00	0	0	0	
Standard Inlet Box	1	EA	\$ 2,000.00	2,000.00	0	0	0	
Combination Box	5	EA	\$ 4,000.00	20,000.00	0	0	0	
Manhole / Junction Box	2	EA	\$ 3,500.00	7,000.00	0	0	0	
Concrete End Section	1	EA	\$ 1,200.00	1,200.00	0	0	0	
SWPPP	1	LS	\$ 5,000.00	5,000.00	0	0	0	
<b>Subtotal</b>				<b>115,992.00</b>				
<b>10% Warranty Bond</b>				<b>11,599.20</b>				
<b>Total</b>				<b>127,591.20</b>				

<b>Sanitary Sewer</b>								
Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%	
8" PVC DR-35	1440	LF	\$ 30.00	43,200.00	0	0	0	
48" Sewer Manhole	6	EA	\$ 3,000.00	18,000.00	0	0	0	
60" Sewer Manhole	2	EA	\$ 3,800.00	7,600.00	0	0	0	
Connect to Existing	1	EA	\$ 4,000.00	4,000.00	0	0	0	
Sewer Lateral	2	EA	\$ 1,500.00	3,000.00	0	0	0	
<b>Subtotal</b>				<b>75,800.00</b>				
<b>10% Warranty Bond</b>				<b>7,580.00</b>				
<b>Total</b>				<b>83,380.00</b>				

<b>Culinary Water</b>								
Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%	
Connect to Existing	1	EA	\$ 4,000.00	4,000.00	0	0	0	
12" PVC C-900 DR 14 Culinary Water	550	LF	\$ 46.00	25,300.00	0	0	0	
12" Valve	2	EA	\$ 2,400.00	4,800.00	0	0	0	
12" Fittings	2	EA	\$ 1,500.00	3,000.00	0	0	0	
Water Lateral	2	EA	\$ 1,300.00	2,600.00	0	0	0	
Fire Hydrant	2	EA	\$ 4,650.00	9,300.00	0	0	0	
<b>Subtotal</b>				<b>49,000.00</b>				
<b>10% Warranty Bond</b>				<b>4,900.00</b>				
<b>Total</b>				<b>53,900.00</b>				

**Road Improvements**

Item	Quantity	Unit	Unit Cost	Bond Amount	Bond Released	Current Draw	%
Clear and Grub	1	LS	\$ 5,000.00	5,000.00	0	0	0
Rough Grade	1	LS	\$ 30,000.00	30,000.00	0	0	0
Sawcut Asphalt	70	LF	\$ 3.15	220.50	0	0	0
Curb and Gutter w/ Base	1240	LF	\$ 20.00	24,800.00	0	0	0
Sidewalk w/ Base	2750	SF	\$ 4.70	12,925.00	0	0	0
ADA Ramp	1	EA	\$ 1,200.00	1,200.00	0	0	0
12" Road Base	20720	SF	\$ 1.30	26,936.00	0	0	0
4" Asphalt Road	20720	SF	\$ 1.75	36,260.00	0	0	0
Concrete Fire Turn Around	800	SF	\$ 5.00	4,000.00	0	0	0
<b>Subtotal</b>				<b>141,341.50</b>			
<b>10% Warranty Bond</b>				<b>14,134.15</b>			
<b>Total</b>				<b>155,475.65</b>			
<b>Total Bond</b>				<b>420,346.85</b>			

**Cash Deposits**

Item	Quantity	Unit	Unit Cost	Bond Amount
Slurry Seal	20720	SF	\$ 0.20	4,144.00
Street Signs	4	EA	\$ 300.00	1,200.00
Street Lights	2	EA	\$ 3,200.00	6,400.00

## FARMINGTON CITY COUNCIL MEETING

January 5, 2016

### WORK SESSION

*Present: Mayor Jim Talbot, Council Members Doug Anderson, John Bilton, Brigham Mellor, and Jim Young, Council Member elect Brett Anderson, City Manager Dave Millheim, City Development Director David Petersen, Associate City Planner Eric Anderson, City Engineer Chad Boshell, Chief of Police Wayne Hansen,, Parks and Recreation Director Neil Miller, City Recorder Holly Gadd and Recording Secretary Melanie Monson.*

**Mayor Talbot** excused Cory Ritz from the meeting due to out of town business, but said he may call in.

### Pack Property Rezone

**Eric Anderson** said the area in question is one of two remaining parcels zoned as LM&B in the City, the other being near the Public Works building. The applicant, Nick Mingo from Ivory Homes, wants to rezone the area to develop single family homes. After receiving feedback from the Planning Commission, the public, and staff, they decided to rezone it as AE instead of LR, which will decrease their lot count significantly, but will be more palatable overall. The Planning Commission asked them to complete a traffic study, which reported that the impact from development would be minimal. Sewer and Water departments also reported that it would be serviceable. The applicant has done everything that has been asked of him. At the December 3<sup>rd</sup> Planning Commission meeting, the applicant reduced their lot count even further, which would allow an area for sexually oriented businesses within the LM&B zones and also have a 400 foot buffer from residential uses. The applicant has made a lot of concessions. The vote tonight is not on the concept plan. Because it is such a big policy shift, the purpose of the item tonight is to see if it makes sense to rezone the property, which will then determine how the application can move forward. **John Bilton** asked what is driving this application. **Eric Anderson** answered that the Pack family has been farming for a long time and are looking at retiring. They want to be able to sell their property. **Dave Petersen** said in some respects the Pack family does not care if it is rezoned or not because they can get slightly more money from UDOT if it is zoned LM&B. **Dave Millheim** said they are tired of being pulled back and forth by UDOT. **Brigham Mellor** showed a map where he superimposed UDOT's preferred alignment with the proposed development. **Mayor Talbot** asked Eric to substantiate staff's recommendation. **Eric Anderson** said there is no downside to leaving it LM&B, and even if it takes 50+ years to develop, it will act as a place holder. The only thing driving the rezone is the property owner wanting to sell it. If it is left LM&B, it could be a great placeholder for the City as it approaches build out. **John Bilton** commented that the size of the property, relatively speaking, is insignificant, and he said it is difficult for him to get his mind around the space for a commercial development. When the layout of the City was planned, this was the best place at the time for the LM&B zone. However, it has become far less attractive for a developer to come in develop something in the LM&B zone. **Dave Millheim** said if it is rezoned, it will effectively be telling future residents that their houses will be condemned if the highway goes through. He said with a rezone, UDOT will

immediately try to buy the land as part of corridor preservation. **John Bilton** said by carving out a section of single family residential, it degrades the LM&B zone, and it becomes less useful, in an already less accessible area. Utah has some attractive features for light manufacturing, but with this size parcel it is a tough sell to break it up and have it still be worthwhile. **Mayor Talbot** said he wanted to make sure the City is using wisdom and making decisions for the right reasons. He said 5-6 years ago, this would have been out of the question. If the Council makes the zoning change tonight, it will be difficult for future residents that move out there. He asked Bret Anderson to enlighten the Council about his decision to vote in favor of it while on the Planning Commission. **Brett Anderson** said if something is profitable, it will happen. However, there has not been a demand for LM&B here in Farmington, and those businesses are going elsewhere. This land has been sitting vacant. **Mayor Talbot** said often times, development happens because the City is encouraging a certain agenda, as was the case with Station Park. He shared his thought that the City has not pushed the LM&B zone, and if the City had, it may have encouraged interest in this property. **Dave Petersen** said the first Planning Commission meeting was well attended and a common theme driving many comments was that people do not want Forza there. **Brett Anderson** said a commercial real estate guy came to the Planning Commission meeting as well, and said when they try to pitch this area, there is no interest. He said if the preferred WDC alignment does go through this property, it will make it even less attractive as an LM&B area. **Mayor Talbot** said he would rather put light manufacturing or storage units there, than homes. **Brett Anderson** said it was a split vote at the Planning Commission meeting, and those who voted against it wanted to keep their options open. **Dave Millheim** said this is a rezone request with a public hearing, and there are 3 options: deny, conceptually approve, or table. While this property may be relatively small in the realm of LM&B properties, it is a large piece of property on the west side of the City. The real policy question to be considered is, does the City want housing in that area. He said to expect a sophisticated presentation from the applicant about why the Council should approve the rezone. If the Council is prepared to vote or if they need more time, it is their decision. **Mayor Talbot** said he does not want the tail to wag the dog, so to speak. By waiting to see what happens with UDOT, the City could perhaps make a more informed decision. **Dave Millheim** said the basis for the denial should be that the City is not in a position to make that decision yet, and not because there is a possibility of a highway there. He said the vote should be based on the policy decision of the zone, and not because of UDOT's forthcoming decision. **Brigham Mellor** said a rezone is a legislative action the Council can take, and can happen based on any factor and any information the City has, including what UDOT has telegraphed about their preferred alignment for the highway. **Dave Millheim** said the actual motion needs to reflect facts and not speculation about a possible highway. **Mayor Talbot** said there will be lots of exciting things on the west side of Farmington, including the new elementary school, high school, gymnasium and park. He stated that if the rezone is approved, he worries about the possibility of low income housing going in if/when people cannot sell their lots due to UDOT's preferred alignment going through the development.

### **Chestnut Farms Rezone**

**Dave Millheim** expressed concern that the traffic for the new schools will come along roads that are currently subpar and will not be able to handle the traffic. This is the last phase of a problematic project, and the City needs to figure out how to get the roads improved. If the

rezone is granted, which the developer is expecting, the City loses all leverage to exact improvements out of the developer. He recommended that the Council table this decision in order to discuss and exact a proportional amount from the developer for the improvements.

**Mayor Talbot** welcomed Jim Young and his wife Patty, as well as the families of Doug Anderson and Bret Anderson.

---

## **REGULAR SESSION**

*Present: Mayor Jim Talbot, Council Members Doug Anderson, John Bilton, Brigham Mellor, Jim Young, Brett Anderson and Cory Ritz (via teleconference), City Manager Dave Millheim, City Development Director David Petersen, Associate City Planner Eric Anderson, City Engineer Chad Boshell, City Recorder Holly Gadd and Recording Secretary Melanie Monson.*

**Mayor Talbot** welcomed the families of Council members being sworn in, as well as former Mayor Harbertsen and his wife.

**Mayor Talbot** noted that **Cory Ritz** had been sworn in on Monday due to a work conflict.

## **CALL TO ORDER:**

### **Roll Call (Opening Comments/Invocation/Pledge of Allegiance)**

The invocation was offered by Councilmember **Brigham Mellor** and the Pledge of Allegiance was led by Boy Scout **Porter Jeffries** from troop 885.

## **PRESENTATIONS:**

### **Presentation for Years of Dedicated Service to Jim Young**

**Mayor Talbot** thanked Jim Young for his years of service on the Planning Commission and the City Council. He has had over 27 years of community service. He presented Jim Young with a plaque for his years of dedicated service as well as with a desk clock. **Jim Young** said he loved the people he served with and shared his love for the City of Farmington. He said one of his guiding principles was to represent the entire City of Farmington, and to consider how decisions will affect the City in the long term.

### **Presentation for Years of Dedicated Service to Brett Anderson**

**Mayor Talbot** welcomed Brett Anderson to the City Council, and presented him with a plaque to thank him for his 5 years of dedicated service on the Planning Commission.

### **Introduction of new City Council Member/Administration of Oath of Office**

**Mayor Talbot** presented Brett Anderson and Doug Anderson to be sworn in, and **Holly Gadd** administered the oath of office.

**Mayor Talbot** welcomed **Jessica Stevens** and **Mariah Millheim** from the Youth City Council.

## **PUBLIC HEARINGS:**

### **Chestnut Farms Phase IV and V Rezone**

**Eric Anderson** said this rezone is in conjunction with Phases IV and V of the Chestnut Farms development by Symphony Homes along 1525 West and approximately 500 West. The rezone is from A to AE for 30.5 acres. The General Plan already has a designation for agriculture, and it was always intended to be AE. The one outstanding issue is the improvements to 1525 West.

**Dave Millheim** recommended that the Council table action on this item after the public hearing. The City is not opposed to the rezone; however there are serious concerns about the roads. He stated that 1525 West has incurred serious damage due to trucks, etc. and that it was not built to City standards. Due to the upcoming high school, more traffic is anticipated and the road cannot handle that traffic in its current condition. While it is not fair to ask the developer to take on all the improvements, a discussion needs to take place to determine their share. Before giving the project vesting via zoning, a conversation needs to take place as to needed road improvements on 1525 West.

**John Wheatley**, 526 North 400 West, North Salt Lake, Utah. He said they have concerns about making improvements along 1525 West. He understands the City's concern about 1525 West and the fact that the road was not built to the City's standards when it was annexed in. He said there needs to be an overall plan, and it is not fair to single them out as a developer to complete the improvements. He said other developments have not had the same requirements. He said if the City wants to have developers complete half streets, they should enact an ordinance. He said they have been at this development since 2005 and has only just been told about this requirement. He said this development will not create significant traffic. He said they are extending secondary water, and making other improvements to drainage, etc. He said the costs they have incurred for these additional improvements will add \$10,000 per lot.

**Mayor Jim Talbot** opened the public hearing at 7:34 p.m.

**Mayor Jim Talbot** closed the public hearing at 7:35 p.m.



**Doug Anderson** asked how many “touch points” the development will have on 1525 West and **John Wheatley** said there will be one.

**Cory Ritz** joined the Council meeting telephonically at 7:35 pm.

**Brett Anderson** asked how the construction crews have accessed the development. **John Wheatley** said primarily through 1100 West but they have brought in fill dirt on 1525 West. **Brett Anderson** asked Dave Petersen if there were other developers that were asked to improve 1525 West as they put in developments. **Dave Petersen** said staff will have to look into that. **Chad Boshell** said in the 2 years he has worked for the City, they have not asked any other residential developments to make improvements along 1525 West; however with other County roads that the City inherited, the City has been asking developers such as the schools, to make half width improvements (26’ of asphalt). **Mayor Talbot** asked when he found out about this and **John Wheatley** said he received first notice of this in June.

***Motion:***

**John Bilton** made a motion that the City Council tabled this rezone until it comes back with some form of agreement in relation to the improvements for the road.

**Doug Anderson** seconded the motion which was unanimously approved.

**Pack Property Rezone and General Plan Amendment for Ivory Homes**

**Eric Anderson** said this is the Pack property on 650 West and Glover’s Lane. The applicant is requesting to rezone 48 acres of LM&B to AE. He said they initially requested LR, but LR has never been zoned west of the freeway, and so the applicant came back requesting AE. At their final meeting, the Planning Commission did not concur with staff’s recommendation and recommended approval with a split vote. They felt that Farmington is a residential community and LM&B uses are not needed; additionally there is not good freeway access to this property. However, staff felt that LM&B is a good placeholder, and could be useful for future development the City does not know it needs yet. The Planning Commission vote was 4-2, with one commissioner absent. The West Davis Corridor preferred alignment goes through this property, but staff was instructed by UDOT to move forward with this application as though that was not a possibility because there is no record of decision yet. However he pointed out that it is an issue that needs to be considered. He said staff feels that the findings are sufficient to deny the application. He said the Planning Commission’s disagreement should also be taken into consideration.

**Nick Mingo**, Ivory Homes, 978 East Wood Oak Lane, Salt Lake City, Utah. He said the total property is about 58 acres. He said there is a small portion of approximately 10 acres that is already zoned AE. Of the remaining 48 acres, they are proposing to leave about 10 acres as LM&B, and to rezone the rest (about 38 acres) as AE. He said they held their own informal neighborhood meeting in addition to the 3 Planning Commission meetings they attended to address concerns. In their opinion, a residential community is a better use than manufacturing in that area. Access for business is not ideal, but it is ideal for families due to

proximity to trails, to the new high school, etc. He pointed out the slow growth of LM&B development, and stated that access to the freeway is a main concern for light manufacturing. Other cities have much better access to the freeway for businesses. He believes leaving the City with 40 acres of LM&B for business development and possible sexually oriented businesses is more than enough. He said there will be adequate utility access. They are aware of the flood plain and they will survey and plan around it. He said they made a significant reduction in the number of residential units, down to 84 from 127. He said some of the businesses allowed in the LM&B zone are office buildings, auto repair, contractor's storage yards, storage units, etc. He said the question is, how much LM&B does the City need, and is 40 acres enough.

***Mayor Jim Talbot opened the public hearing at 7:59 p.m.***

**John Kraczek**, 1037 South 650 West, Farmington, Utah. He missed the last Planning Commission meeting, and said his main concern surrounds the current traffic situation. The traffic is currently so bad that it would be better to have a residential development than the soccer fields. He said there is excessive speeding, and so much dust accumulates on their homes when there are soccer tournaments. He said if the soccer fields will be there, something needs to be done about the intersection at 650 West and Glover Lane. He said if it is going to be residential, there needs to be better access through better roads.

**Jared Shetsellar**, 1050 South 650 West, Farmington, Utah. He said for those who live along 650 West, the current condition is not tolerable. He echoed the concerns John brought up of speeding and dust accumulating on their homes. He said there is a continual flow of speeding cars through the 25 mph speed zone. He said there are no sidewalks, the snow is not plowed to the edges, and many of the neighbors farm and have animals and pets that cross the street. He said he has pictures of the dust clouds as well as of the traffic problem. He said many of the neighbors are in favor of a residential development. He said at times they are unable to get out of their driveway. He said his neighbor was knocked off a 4-wheeler by a car going by. He said unlike staff indicated, there is an additional downside, with UDOT possibly coming through. He said that should make us move forward faster to leave UDOT with other options for routing the highway. With the high school coming in, a neighborhood would give people a place to congregate in support of the new high school, whereas LM&B does not.

**Jackie Hardy** 325 West Glover Lane, Farmington, Utah. She said there is no perfect place for LM&B. She said she has driven semi-trucks with her husband and has to wind through roads to get to where they need to go. She said she thinks the current area is a good place for LM&B.

**Chet Barber** 165 South Main Street, Salt Lake City, Utah. He is a commercial real estate broker. He said he has represented the Packs for nearly 4 years. He does not like to see LM&B zones absorbed, but he thinks there is more than adequate LM&B remaining. He sees it as more of a Class C location. He said there is virtually no south bound access, and there are 7-8 intersections a semi-truck would have to go through in order to reach this area. He said the location will not attract the kinds of tenants the City wants in that zone. He does not see roads and access changing to make it easier for this zone, particularly with the school zones, which trucks do not want to have to drive through. He said there is simply not the infrastructure there

for greater absorption. Most of the current absorption has been dance studios, cheer studios, etc, but there are only so many of those tenants and businesses that can go in.

***Mayor Jim Talbot closed the public hearing at 8:12 p.m.***

**Mayor Talbot** said he can remember 25 years ago, there was no commercial development in the City. Given that, it is not out of the question to think that LM&B could be useful in the future, and 40 acres will go quickly once you factor in open space, etc.

**Brigham Mellor** said in Syracuse he deals with some industrial property that is 3 miles from the freeway, which is further than this property. The community's involvement with the project enabled it to go forward. He said if the City were actively pursuing LM&B things may be different. There are a lot of factors that could help make LM&B successful in this location, but those are not being considered at this time. He is not in favor of the rezone.

**Brett Anderson** said he sat through 3-4 hours of meetings on this issue. He asked, how long is long enough to wait for development to occur, and if there a reason this property has been sitting for a decade with no development. He believes that if something is profitable it will happen, and it has not happened. He pointed out that this is an entry point on the south/west end of the City, and he wondered if it is more appealing to have a residential development, as opposed to a light manufacturing. Part of the stated purpose of the LM&B zone in the code is to reduce the impact of those businesses and the associated traffic on other areas, but this particular area is not accomplishing that, in fact it is making those things worse. He said he is in favor of the rezone.

**Cory Ritz** said he attended the neighborhood meeting, and after listening to the presentation he found himself changing his opinion. He said he agrees with what Bret Anderson said, and pointed out that the developer has done a good job with their due diligence. He does not think the City needs to worry too much about UDOT, and he is not in favor of the current situation. As he listened to what has been said, he thinks it is a poor location for LM&B because of access. He is in full agreement with the Planning Commission and their process and is in favor of the rezone.

**John Bilton** said some of his concern revolves around the unknowns. He said it took 20 years for Farmington to develop a commercial base. He said some of the concern has been over access, but he does not think all the access has been developed yet, and things could still happen with this property. He said these zones take time and effort to develop. He understands the frustration with Forza soccer, and thinks that indicates the need for enforcement and signage to mitigate the problems for the residents. He thinks if the Pack's had a tenant, the soccer use would go away. He said a residential use spreads out the LM&B zone too far, and people will not want to have additional light manufacturing around them. He is inclined to leave it as is at the moment. He said LM&B areas can be done nicely. He said he understands the perspective of the Pack family, who want something to be done sooner rather than later, along with the forthcoming decision from UDOT. He thinks it would be prudent to be patient for that decision as it may impact this decision.

**Doug Anderson** said a lot of his thoughts are similar to John's regarding the unknowns. He said those residents in the area he has talked to are less excited about a residential use, than they are anxious to get rid of the soccer use. He said he does not think it would be prudent to make the decision too quickly. He said he thinks we need to be good stewards in waiting for the record of decision from UDOT as it will impact those potential residents.

**Mayor Talbot** said he has heard from several residents that anything is better than what is there. However he still agrees that waiting for the record of decision from UDOT would be the smart thing to do. He thinks the Planning Commission did a good job of carefully dissecting the issue. He was interested to see why staff wanted to deny this for the time being, and thinks they make good points.

***Motion:***

**John Bilton** made a motion that the City Council deny the zoning map amendment.

**Doug Anderson** seconded the motion which was approved 3-2.

John Bilton- aye  
Doug Anderson- aye  
Brigham Mellor- aye  
Bret Anderson- nay  
Cory Ritz- nay

**Findings for Denial:**

1. Rezoning the LM&B zone would reduce the area for this necessary zoning designation and could potentially hamstring the City if there was not enough space for these types of uses to develop in the future.
2. Rezoning the property would allow for more residential abutting existing LM&B uses, including warehousing, self-storage, a heavy machinery storage yard, etc.
3. Rezoning the property is an inappropriate use for this area in the future.
4. If the applicant is correct, and developing this property as LM&B may take decades, then leaving this property as LM&B may provide the City greater flexibility in the future to accommodate unforeseen uses that may need ample green field space that otherwise may not be available as the City approaches build out.
5. If it is determined in the future that LM&B is no longer a viable zoning designation and residential uses are more desirable, at that time a residential zoning designation can be granted.
6. Currently there is no downside to leaving the property zoned as LM&B, except to the property owner, who was in favor of the original zoning designation of LM&B (instead of the default A zone designation) when the property was annexed in 2002.

**Cory Ritz** excused himself from the Council meeting for the remainder of the meeting.

**NEW BUSINESS:**

**Clark Lane Village License Agreement**

**Dave Petersen** said the City Council recently approved modified street cross sections allowing perpendicular parking on Clark Lane and 650 West, but did not want to vacate the right of way. Staff recommends approving the license agreement to allow residents to use the rights of way for parking and to maintain the road and provide snow removal. He said they want to take the negligence statement in the second paragraph of section 5 and add it to the first paragraph of section 5. **Brett Anderson** said that as it currently stands, it leaves the City more protected, rather than adding exposure.

**Bryce Thurgood**, Castle Creek homes. He said he appreciates the City allowing them to have on street parking. He expressed concern about repeated issues from City negligence, and said that is why they wanted to add the statement to paragraph 2.

**Dave Petersen** added that the development will have 142 apartments, and not 140, which will need to be amended in the agreement. **Dave Millheim** said if the Council decides to make a motion, it is ok to move forward. He reminded the Council that the developer is under deadlines. He said the motion should reflect any changes. He said this document is a permission form to use City right of way. He said there are other recourses for the developer if there are consistent issues that are a result of City negligence.

***Motion:***

**John Bilton** made a motion that the City Council approved the enclosed license agreement enabling the developer of Clark Lane Village private use of public rights-of-way as set forth therein, with one change to the recitals: in paragraph 3, it should say 142 units where it says 140.

**Brigham Mellor** seconded the motion, which was unanimously approved.

**Resolution Amending the Consolidated Fee Schedule relating to Activities, Rentals and Contractual Rates**

**Holly Gadd** said it was brought to staff's attention that a few things needed to be added to the Consolidated Fee Schedule- some fees for programs being added on from the Parks Department, as well as fees for the Police and Fire Departments that were not in there previously. She said they made sure all the fees were included.

***Motion:***

**Doug Anderson** made a motion that the City Council approved the attached Resolution amending the consolidated fee schedule regarding activities, rentals and contractual rates.

**Brigham Mellor** seconded the motion which was unanimously approved.

## SUMMARY ACTION

### Minute Motion Approving Summary Action List

1. Cemetery Rules and Regulations
2. Avenues at the Station Phase 2 Improvements Agreement
3. Approval of City Council Minutes from December 15, 2015
4. Bid for Workers Compensation Insurance
5. Approval of Prosecution Services Agreement for Justice Court
6. Resolution appointing City Recorder and City Treasurer

**Dave Millheim** asked that item 5 be pulled for separate vote.

#### *Motion:*

**Brigham Mellor** made a motion to approve the items on the Summary Action List 1-4 and 6.

**Doug Anderson** seconded the motion which was unanimously approved.

**Dave Millheim** said the City still needs prosecution services, but the proposed cost from the 3 respondents to the RFP was as high as \$12,000 per month. He said they then received a proposal for all-inclusive prosecution services for \$4700 per month, including secretarial support, etc. He said it would include various County prosecutors who have other day jobs but are trained to provide prosecution services. **Mayor Talbot** said he is comfortable with this arrangement. He said as long as the employees are providing the services on their own time so that the County cannot claim that they are performing services for the City on County time. **Dave Millheim** said it is a professional services agreement with an individual, and there is no County supervision of this arrangement. He has made it clear to them. **John Bilton** asked if the County Commissioners know, and **Dave Millheim** said they have not sought their approval, but they did speak with the County attorney. **John Bilton** asked if these individuals filled out the packet like the other respondents did. He was worried this arrangement might be a setback to the City's current relationship with the County. **Dave Millheim** said they did not. They were given the packet after the fact. He said the City approached them, but it will be their responsibility to discuss it with their employer. He said it was a judgment call to do what was best for the City in terms of weighing service and cost.

#### *Motion:*

**John Bilton** made a motion that the City Council approved the prosecution services agreement for the Justice Court as outlined.

**Doug Anderson** seconded the motion which was unanimously approved.

## GOVERNING BODY REPORTS:

### City Manager – Dave Millheim

1. Executive Summary for the Planning Commission meeting held on December 17, 2015
2. Prop 1 Funding Update: he handed out a paper with the estimated monies the City will receive from Prop 1. Farmington is forecast to get roughly \$400,000 of new money, but it can only be used for maintenance of existing roads and trails. It will be audited in the future. The City has about 500 lane miles; the County has 31 lane miles, but will soon have 21 as they give away roads. They will receive about \$2 million in Prop 1 funding. He does not doubt that the Prop 1 legislative intent works in some other counties that have different road makeup. This money will be a big help for the City, and the City will need to carefully consider how to spend it.
3. Strategic Planning Date—February 4<sup>th</sup> from 4-8 pm with dinner: he said they are going to focus on the top priorities at this meeting. **Doug Anderson** said he will be out of town. **Dave Millheim** said he can go over the agenda with him ahead of time. **Brett Anderson** said he will also be gone. **Mayor Talbot** said if everyone would commit to going to the League of Cities and Towns meeting in St. George April 6-8, the strategic planning meeting could take place then. **Dave Millheim** said they will come back with some new dates.
4. Public Improvements Reimbursement Agreement: he read an email he received from the County regarding the culvert. He said the County will circulate the RFP once they have contract documents back from the City. He said the contract is supposed to cover the three way agreement for the 1100 West culvert. The CRS engineer said having a three way bill is problematic, and so he spoke with County Commissioner Petrov, who had their attorney draft the document. He asked the Council for a thumbs up or down. He said the City becomes the controlling agent for collecting money, but leaves the County in charge of project management. The School District will likely approve it as a change order and will not take it before the School Board. If the Council gives a thumbs up, after he reads through the contract he will put it on as a summary action item in two weeks. **Mayor Talbot** also asked the Council to give him the authority to meet with Dave and the County to address any issues that arise. All Council members gave their thumbs up.
5. January 27<sup>th</sup> is Local Official's Day at the legislature. Brigham Mellor and Doug Anderson previously committed to go. **Mayor Talbot** said he would also attend. **Holly Gadd** said she will need to register whoever goes. **Brigham Mellor** said he has typically gone to the lunch in order to talk with the youth there.

### City Council Reports

**John Bilton:** he referenced an email from Susan Tanner regarding damage from a telephone pole. **Dave Millheim** said there is no question that the City caused the issue, and the City did not reach out to the residents. He said the City will not overreact to her letter, but he told the Council to expect other letters like this regarding upcoming changes such as the park, the SAA, the traffic, the telephone poles, etc. He said the City needs to do better outreach and communication, but he advised the Council not to overreact. **Mayor Talbot** agreed that the City needs to do better outreach.

**Doug Anderson** said the recent winter storm knocked down a lot of branches from large trees, and he is aware that the City cleans up branches along Main Street. He said a lot of branches were knocked off of large cottonwood trees along the Steed Creek corridor, and he



wondered if the City would be willing to pick the branches up if the residents dragged them to the street. **Dave Millheim** said the City does clean up branches on any Public right of way. However, helping out select residents opens the City up to having to pick up branches and debris for every resident and could lead to the equivalent of multiple spring cleanups. He would advise against the City taking that on. **Mayor Talbot** asked if he has spoken with Public Works to see if they feel the same. **Dave Millheim** said yes, they agree. He said spring cleanup is another issue, because they have crews who go out specifically for that purpose. He said they need to do a lot of education so residents know what to expect for that. He said spring cleanup is a beautification and fire mitigation issue. He asked Doug to give him the specific addresses and he would look into it.

**Brett Anderson:** a resident asked him if the City has a way to show which road improvements it is prioritizing, such as on the website. **Dave Millheim** said in the upcoming budget, the priorities will be itemized. Once the budget is approved, they can publish it. **Mayor Talbot** said they can also put a note in the newsletter directing residents to the website.

#### **Mayor Jim Talbot**

1. He said he wanted to discuss who would be the new Mayor pro-tem.

#### ***Motion:***

**Brigham Mellor** made a motion to nominate John Bilton.

**Doug Anderson** seconded the motion, which was unanimously approved.

2. He said they are extending Heather Barnum's Planning Commission appointment by 2 years, and have appointed Connie Gianni for a 2 year term.
3. For the next meeting, he will email out his suggestions for each Council members liaison assignments so they can be solidified. He said during the second meeting of every month the Council will report on their committee assignments.
4. He welcomed Brett Anderson to the Council.

Council member **Brigham Mellor** did not have anything to report at this time.

#### **ADJOURNMENT**

#### ***Motion:***

At 9:30 p.m., **John Bilton** made a motion to adjourn the meeting. **Brigham Mellor** seconded the motion which was unanimously approved.

---

**Holly Gadd**, City Recorder  
Farmington City Corporation



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

BRETT ANDERSON  
DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council

From: Dave Millheim, City Manager

Date: January 12, 2016

SUBJECT: **PUBLIC IMPROVEMENTS AGREEMENT WITH FARMINGTON CITY, DAVIS SCHOOL DISTRICT AND DAVIS COUNTY FOR ROAD AND CULVERT WORK**

### RECOMMENDATION

Authorize the Mayor to execute the attached agreement between Farmington City, the Davis School District and Davis County for road and culvert improvement along Farmington Creek at 500 South and 1100 West.

### BACKGROUND

A new elementary school is being constructed along 1100 West which needs better access. The School District is completing needed public improvements along 1100 West to address the transportation challenge for both the elementary school and the future high school. The actual culvert crossing along Farmington Creek at 1100 West is the responsibility of the County. 1100 West is an arterial road which causes the City to bear some of the cost. As a result, the parties have worked together and agreed on a three way split of associated project costs. The attached agreement was prepared by the County and was reviewed by the City Attorney and City Manager. The County will have primary project management responsibilities. The City will be the responsible party for the purposes of paying invoices and keeping the accounting straight as to the funding sources. There are also multiple bid documents, notices, etc., associated with this project which are not included with the staff report to since only the Project Contract requires Council approval. This contract is consistent with earlier direction given by the Council. The City Engineer in cooperation with the County has already authorized bid noticing to proceed. We are on a pretty tight schedule attempting to get much of this work done before a spring deadline of April 15<sup>th</sup>.

Respectfully Submitted

Dave Millheim  
City Manager



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## MEMO

TO: Dave Millheim  
FROM: Chad Boshell  
DATE: January 12, 2016  
SUBJECT: 1100 West Culvert Project

Dave,

The 1100 West Farmington Creek Culvert Project is out to bid. Prior to the documents being released I reviewed the contract documents and the final set of construction drawings and found that all comments and concerns have been addressed. I informed Adam Wright with the County that it was ready to be bid.

Please contact me if you have any questions or concerns.

Sincerely,

Chad Boshell, P.E.  
City Engineer  
720 West 100 North  
Farmington, Utah 84025

## PROJECT CONTRACT

This PROJECT CONTRACT (this "Contract") is made and entered into by and between DAVIS COUNTY ("County"), FARMINGTON CITY ("City"), DAVIS SCHOOL DISTRICT ("School District") (County, City and School District may be collectively referred to as the "Government Parties" in this Contract), and \_\_\_\_\_ ("Contractor"). County, City, School District and Contractor may be collectively referred to as the "Parties" in this Contract.

### Recitals

This Contract is made and entered into by and between the Parties based, in part, upon the following recitals and representations:

A. The Government Parties intend that a public improvement road and culvert project located at approximately 1100 West 500 South, Farmington, Utah (the "Project") be undertaken and completed for the Government Parties by Contractor, as described in this Contract and the Contract Documents;

B. Contractor represents and warrants to the Government Parties that it is a qualified contractor licensed to engage in the construction business in the State of Utah and able and competent to undertake and complete the Project;

C. Contractor represents and warrants that it has:

- 1) Obtained copies of and examined all Contract Documents for this Project;
- 2) Examined the Project site and is fully informed as to all existing local conditions and limitations under which the Project work is to be performed, including, but not limited to, the availability of necessary labor, subcontractors, equipment, and materials;

- 3) Considered all applicable Federal, State and local laws, rules, regulations, codes and designations that may affect the cost, progress, performance, or furnishing of materials, equipment, labor or service for the Project;

- 4) Conducted any explorations, tests, studies, or investigations as may be necessary in order to obtain the information pertinent to the physical conditions at or contiguous to the Project site which Contractor deems necessary in order to undertake and complete the Project;

- 5) Become familiar with and considered the character, quality and quantities involved in the services to be performed and equipment and materials to be provided or used, prevailing hourly wage rates for the area and this type of project, and other construction business factors which may affect the ability of Contractor to undertake and complete the Project;

- 6) Informed the Project Manager by written notice of any significant or apparent errors or omissions as to the quantities of materials to be provided or removed from the Project site or as to time requirements designated in the Contract Documents; and

- 7) Given written notice to the Project Manager of all significant or apparent errors, ambiguities, conflicts, inconsistencies, omissions, or discrepancies in the Contract

Documents and submitted any questions Contractor has had with respect to the provisions of the Contract Documents and requested an interpretation of or correction to the Contract Documents as to those matters.

D. Contractor is desirous of entering into this contract and undertaking and completing the Project for the Government Parties under the terms and provisions of this Contract as well as the Contract Documents.

### **Contract Terms**

NOW, THEREFORE, in consideration of the mutual conditions and covenants contained herein, the parties hereto do hereby agree as follows:

#### **1. Contract Documents**

A. The Contract Documents comprise the entire agreement between the Government Parties and Contractor concerning the Project. Each of the Contract Documents is deemed a part of this Contract.

B. The Contract Documents consist of the following:

- 1) Table of Contents;
- 2) Notice to Contractors for Bid;
- 3) Bid Instructions;
- 4) Project Plans and Drawings;
- 5) (Not Used);
- 6) Bidder General Information
- 7) (Not Used);
- 8) Bid;
- 9) Bid Bond;
- 10) Notice of Award;
- 11) Acceptance of Notice of Award;
- 12) Project Contract;
- 13) General Conditions;
- 14) Supplemental Conditions;
- 15) Performance Bond;
- 16) Payment Bond;
- 17) Notice to Proceed;
- 18) Acceptance of Notice to Proceed;
- 19) Change Order(s);
- 20) Work Directive(s) and Authorization(s);
- 21) Request(s) for Clarification;
- 22) Draw Request(s);
- 23) Certificate of Substantial Completion;
- 24) Specifications; and
- 25) Notice to Contractor on How to Potentially Protect Certain Portions of Its Bid

C. Contractor shall immediately give written notice to the Government Parties of any conflicts, ambiguities, inconsistencies, errors, omissions or discrepancies of which Contractor

becomes aware at any time pertaining to the any of the Contract Documents; any questions or requests Contractor may have pertaining to the Contract Documents or any request of Contractor for interpretation and correction. The Government Parties shall respond as soon as reasonably possible to any such notice or requests for interpretation or correction.

## 2. The Work

A. The Parties acknowledge, understand and agree that Contractor's sole point of contact for all matters relating to the construction of the Project shall be Davis County, through the Project Manager, Adam Wright. The Parties further acknowledge, understand and agree that none of the Government Parties shall be liable to any of the Parties for any acts or omissions made by the Project Manager or any County employee relating to the Project, which are made in good faith and as a result of the Project Manager obligations set forth in this Contract and/or the Contract Documents.

B. The Parties acknowledge, understand and agree that Contractor shall complete all work with respect to the Project as specified and described in the Contract Documents.

C. The Parties acknowledge, understand and agree that Contractor shall:

- 1) Attend a preconstruction conference with representatives from the Government Parties and other stakeholders and/or their representatives;
- 2) Provide all equipment, tools, labor, services, transportation, supervision, and other construction accessories, services, and facilities needed to complete the Project work;
- 3) Provide all materials, supplies, and equipment specified to be incorporated into and form a part of the complete Project work; and
- 4) Provide and perform all work in a substantial and skillful manner and in accordance with the provisions of the Contract Documents.

D. The Parties acknowledge, understand and agree that all work performed under this Contract and the Contract Documents shall be subject to inspection by and the approval of the Project Manager or the Government Parties authorized representatives.

E. Contractor represents, warrants and certifies that, under penalty of perjury, Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's employees that are employed in the State of Utah in accordance with Section 63G-12-302, *Utah Code Annotated*. Contractor further represents, warrants and certifies that it will require verification from sub-contractors that they and each of them are complying with Section 63G-12-302, *Utah Code Annotated*.

## 3. Dates of Commencement and Substantial Completion

A. The work to be performed under this Contract shall be commenced within 14 days of the issuance to Contractor of the Notice to Proceed.

B. The work to be performed under this Contract shall be substantially completed, within **45 days** from the date of issuance of the Notice to Proceed, subject to any modifications or amendments to this Contract, including, but not limited to, any authorized adjustments, change orders, or work directives and authorizations.

C. All work to be performed under this Contract shall be completed, within **60 days** from the date of issuance of the Notice to Proceed, subject to any modifications or amendments

to this Contract, including, but not limited to, any authorized adjustments, change orders, or work directives and authorizations.

#### 4. Contract Price and Reimbursements

A. The Parties acknowledge, understand and agree that City shall pay to Contractor, subject to additions and deductions by approved change orders or work directives and authorizations, as may be otherwise provided by the Contract Documents, the contract price for the Project in the total amount of (\$\_\_\_\_\_).

B. The Parties acknowledge, understand and agree that County shall reimburse City an amount equal to one-third of the Project contract price, which shall include additions and/or deductions to the Project contract price if made by approved change orders or work directives and/or authorizations. Once City has made a payment on the Project, City shall provide County with evidence of such payment and request County, in writing, for a reimbursement in an amount equal to such payment or a portion of such payment, as applicable. Within thirty days of County's receipt of City's written request for reimbursement of a payment or a portion of a payment made on the Project and evidence of the applicable payment on the Project, County shall fully reimburse City in an amount equal to City's written reimbursement request. Notwithstanding anything herein to the contrary or otherwise, County shall:

1) only reimburse City for costs and/or expenses that relate directly to the construction of the culvert portion of the Project (e.g. labor and materials relating solely to the culvert portion of the project and not the road portion of the project);

2) not, under any circumstances, have any payment obligations to Contractor either under this Contract or relating in any way to the Project; and

3) not, under any circumstances, be obligated to pay more than an amount equal to one-third of the Project contract price, which shall include additions and/or deductions to the Project contract price if made by approved change orders or work directives and/or authorizations.

C. The Parties acknowledge, understand and agree that School District shall reimburse City an amount equal to one-third of the Project contract price, which shall include additions and/or deductions to the Project contract price if made by approved change orders or work directives and/or authorizations. Once City has made a payment on the Project, City shall provide School District with evidence of such payment and request School District, in writing, for a reimbursement in an amount equal to such payment or a portion of such payment, as applicable. Within thirty days of School District's receipt of City's written request for reimbursement of a payment or a portion of a payment made on the Project and evidence of the applicable payment on the Project, School District shall fully reimburse City in an amount equal to City's written reimbursement request. Notwithstanding anything herein to the contrary or otherwise, School District shall:

1) not, under any circumstances, have any payment obligations to Contractor either under this Contract or relating in any way to the Project; and

2) not, under any circumstances, be obligated to pay more than an amount equal to one-third of the Project contract price, which shall include additions and/or deductions to the Project contract price if made by approved change orders or work directives and/or authorizations.



**5. Contract Payments Made by City to Contractor**

A. Upon fully completing Contractor's obligations regarding certain portions and/or divisions of the Project, Contractor shall submit written draw requests to the City Manager, using Contract Document No. 22, for each payment request.

B. Upon receiving a written and properly completed draw request from Contractor, City shall make progress payments towards the contract price to Contractor, subject to appropriate inspection and verification by the Parties or their authorized representatives, within thirty days of the receipt of each draw request. In the event that City or County determine, after inspection of the Project, that Contractor has not fully completed its obligations regarding the certain portions and/or divisions of the Project for which it is seeking payment on a particular draw request, City shall not be obligated to pay Contractor for the portion of the work not completed and shall only be obligated to pay Contractor for such portions of the work within thirty days after City, with the input of County, determines that such portions of the work are not satisfactorily completed.

C. Draw requests shall generally be submitted by Contractor to City on a monthly basis and shall be accompanied by all relevant documentation indicating the progress within each portion or division of the contracted work, the total percentage of work completed and the total retainage as specified in this Contract.

D. Disbursements for each progress payment shall be made in the manner and subject to the conditions as set forth in Attachment A which is made a part of this Contract and is incorporated herein by reference.

E. City may withhold any payment regarding the Project including, interim or final payments, until Contractor has corrected or replaced any work or materials that are defective or fail to conform to the Contract Documents and/or reasonable construction standards, codes, regulations, and laws. In the event that Contractor fails to correct or replace any work or materials required by the Government Parties within fifteen days after receiving written notice to do so by one or more of the Parties, the Government Parties may apply some or all of the retained funds to correcting or replacing any defective or nonconforming work or materials in addition to any other remedies available to the Government Parties under the Contract Documents, law, equity or otherwise.

**6. Liquidated Damages**

A. The Parties acknowledge, understand and agree that:

- 1) Time is of the essence with respect to this Contract;
- 2) The Government Parties will incur damages and inconvenience if the Project is not completed within the time specified in Section 3 of this Contract;
- 3) The Parties will likely incur unnecessary and unreasonable delay, expense and difficulties involved in any efforts, including legal proceedings, to establish the actual loss incurred by the Government Parties if the Project is not completed within the specified time; and

4) Based upon the foregoing and in lieu of requiring any such proof of damage or loss attributable to the delay and the completion of the Project, Contractor shall pay City liquidated damages representing such damages or delay to the Government Parties in the sum of \$600.00 per day following the specified date for substantial

completion as set forth in this Contract including any adjustments made by any change order or addition to this Contract. Once City receives a liquidated damages payment from Contractor, City shall pay an amount equal to one-third of the paid liquidated damages from Contractor to School District and one-third of the paid liquidated damages from Contractor to County within twenty days.

B. The Parties acknowledge, understand and agree that any payment of liquidated damages by Contractor to City under this Contract is not and shall not be deemed to constitute a penalty.

C. Upon substantial completion and the issuance of a Certificate of Substantial Completion, if Contractor should neglect, refuse, or fail to complete any remaining work within the time specified in Section 3 of this Contract or any approved extension thereof, Contractor shall pay to City the sum of \$600.00 per day for each day after the time specified for completion in Section 3 of this Contract. Once City receives a liquidated damages payment from Contractor, City shall pay an amount equal to one-third of the paid liquidated damages from Contractor to School District and one-third of the paid liquidated damages from Contractor to County within twenty days.

D. The acceptance by Contractor of final payment shall constitute a waiver of all claims by Contractor against any of the Government Parties except those previously made in writing and which remain unsettled at the time of the acceptance of final payment.

E. Before final payment may be made, Contractor shall submit to the City Manager reasonable evidence that all payrolls, material bills, subcontracts, and outstanding indebtedness incurred by Contractor in connection with the Project have been paid or that appropriate and acceptable arrangements have been made for their payment.

## **7. Contractor's Warranty**

A. With respect to all labor, materials or otherwise relating in any way to the culvert portions of the Project:

1) Contractor warrants to County that:

a) All materials and equipment furnished under this Contract shall be new and under manufacturer's warranty, if applicable, unless specified otherwise by this Contract; and

b) All work on the Project shall be of reasonable quality, free from faults and defects and shall be in conformance with the Contract Documents and reasonable construction standards and applicable codes, regulations, and laws.

2) Contractor shall correct or replace any work or materials that are defective or fail to conform to the Contract Documents and reasonable construction standards, codes, regulations, and laws within thirty days after written notice is sent by County to Contractor regarding any defect or failure to correct or replace any work or materials that are defective or fail to conform to the Contract Documents and reasonable construction codes, regulations, standards and laws.

3) Contractor shall deliver and assign to County all equipment and material warranties issued by the manufacturers of such materials and equipment. The warranties and assignments of warranties shall be delivered within ten (10) days of substantial completion of the Project.

4) All warranties of Contractor shall extend for a minimum period of three years from the date of final inspection of the Project.

B. With respect to all labor, materials or otherwise relating in any way to the road portions of the Project:

1) Contractor warrants to City that:

a) All materials and equipment furnished under this Contract shall be new and under manufacturer's warranty, if applicable, unless specified otherwise by this Contract; and

b) All work on the Project shall be of reasonable quality, free from faults and defects and shall be in conformance with the Contract Documents and reasonable construction standards and applicable codes, regulations, and laws.

2) Contractor shall correct or replace any work or materials that are defective or fail to conform to the Contract Documents and reasonable construction standards, codes, regulations, and laws within thirty days after written notice is sent by City to Contractor regarding any defect or failure to correct or replace any work or materials that are defective or fail to conform to the Contract Documents and reasonable construction codes, regulations, standards and laws.

3) Contractor shall deliver and assign to City all equipment and material warranties issued by the manufacturers of such materials and equipment. The warranties and assignments of warranties shall be delivered within ten (10) days of substantial completion of the Project.

4) All warranties of Contractor shall extend for a minimum period of three years from the date of final inspection of the Project.

## **8. Performance and Payment Bonds**

A. Upon the execution of this Contract and prior to the commencement of the Project, Contractor shall provide duly executed performance and payment bonds as specified in the Contract Documents. Contractor shall use Contract Document Nos. 15 and 16, respectively, for such bonds together with any necessary attachments.

B. These bonds shall remain in effect at least until one (1) year after the date when final payment becomes due, except as otherwise provided by law, regulation, or the Contract Documents.

C. If the surety on any bond furnished by Contractor is declared bankrupt, becomes insolvent, or loses its right to do business within the State of Utah, Contractor shall within five (5) days thereafter substitute another bond and surety, both of which must be acceptable to the Government Parties.

## **9. Insurance and Risk**

A. Contractor shall obtain and maintain insurance, with a company or companies lawfully authorized to do business in the State of Utah, with coverage provided for claims which may arise out of or resulting from Contractor's actions or omissions under this Contract and/or the Contract Documents and from any actions or omissions for which Contractor may be liable, whether such acts or omissions be by Contractor, a subcontractor, or any other party directly or indirectly employed by or contracted with any of them for the following claims:

- 1) Claims under Workers' Compensation, including coverage for occupational disease;
- 2) Claims for disability benefits;
- 3) Claims under similar employment benefit laws applicable to the work to be performed;
- 4) Claims for damages because of bodily injury, occupational sickness or disease or death of any person, including Contractor's employees or any person other than Contractor's employees;
- 5) Claims for damages for personal injury to or death of any person;
- 6) Claims for damages because of injury to or destruction of tangible property;
- 7) Claims for damages because of injury to or death of any person or the destruction of any property arising from the operation of a motor vehicle by Contractor's employees, agents, or representatives; and
- 8) Any other claims resulting from any injury or damages incurred or caused by any employees or agents of Contractor or any subcontractor, their employees or agents.

Contractor may self-insure any or all of these exposures if Contractor does so using a plan of self-insurance approved by the State of Utah and acceptable to the Government Parties.

B. Contractor shall provide to the Project Manager, prior to the commencement of the Project, a valid Certificate of Insurance for the required insurance which is acceptable to the Government Parties.

C. If any of the insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted to the Project Manager.

D. Coverages shall be written on an occurrence made basis and shall be maintained without interruption from the date of commencement of the Project until at least one year from the date of final payment or one year from the last date of work is performed on the Project, whichever is later.

E. From the commencement of the Project and continuing through the completion of the Project, Contractor shall carry all of the risk arising from, in connection with and/or relating in any way to the construction of the Project, including, but not limited to, all materials, fixtures, equipment, and regardless of whether the property is at the Project site, in transit or off the Project site. Contractor may, in its discretion, obtain a builders risk insurance policy to assist Contractor with this obligation.

## 10. Liability and Indemnification

A. Contractor, for itself, and on behalf of its officers, officials, owners, members, managers, employees, agents, representatives, contractors, volunteers, and/or any person or persons under the supervision, direction, or control of Contractor (the "Contractor's Representatives"), agrees and promises to indemnify, defend, save and hold harmless the Government Parties, as well as each of their officers, officials, employees, agents, representatives, contractors, and volunteers (the "Government Parties' Representatives"), from and against any loss, damage, injury, liability, claim, action, cause of action, demand, expense, cost, fee, or otherwise (the "Claims"), that may arise from, may be in connection with, or may

relate in any way to this Contract, the Contract Documents, and/or the acts or omissions, negligent or otherwise, of Contractor or Contractor's Representatives, whether or not the Claims are known or unknown, or are in law, equity, or otherwise, and which do not arise from the sole negligence of one or more of the Government Parties.

B. Each of the Government Parties, for themselves, and on behalf of each of their officers, officials, employees, agents, and representatives, agrees and promises to indemnify, defend, save and hold harmless Contractor, as well as Contractor's officers, officials, owners, members, managers, employees, agents, and representatives, from and against any loss, damage, injury, liability, claim, action, cause of action, demand, expense, cost, fee or otherwise (the "Claims"), arising from, in connection with, or relating in any way to this Contract, and which arise from the sole negligence of the particular Government Party (e.g. County, City or School District), or the particular Government Party's Representatives.

C. The Parties acknowledge, understand and agree that no term or condition of this Contract, including, but not limited to, insurance that is permitted or required under this Contract, shall limit or waive any liability Contractor may have arising from, in connection with, or relating in any way to this Contract, the Contract Documents and/or the Project, and/or the acts or omissions, negligent or otherwise, of Contractor or Contractor's Representatives.

D. The Governmental Parties hereby acknowledge and state that no provision of this Contract or the Contract Documents shall be, or shall be construed as, a waiver of any applicable provision of the Governmental Immunity Act of Utah.

## 11. Change Orders and Work Directives

A. Any changes in the Project and adjustments to this Contract consisting of additions, deletions, or other revisions which increase the Contract price, extend the time, or change the scope of the Project may be authorized only by authorized representatives of the Parties and by completed change orders. All change orders shall be on the Change Order Form (Contract Document No. 19) signed and approved by authorized representatives of the Parties, and shall be performed under the applicable conditions of the Contract Documents.

B. Changes in the Project that do not increase the Contract Price, extend the time, or change the scope of the Project may be authorized by a Work Directive and Authorization Form (Contract Document 20) pursuant to the *General Conditions* (Contract Document 13).

## 12. Termination of This Contract

A. The Government Parties may terminate the Contract if Contractor:

- 1) Persistently or repeatedly refuses or fails to supply sufficient and properly qualified and skilled workers or proper materials;
- 2) Fails to make payments to subcontractors for materials or labor in accordance with agreements between Contractor and the subcontractors;
- 3) Persistently disregards applicable laws, codes, standards, or regulations or any directives from the Government Parties to come into compliance with such laws, codes or regulations; or
- 4) Is otherwise in material breach of any provision of this Contract or the Contract Documents.

B. If the Government Parties have terminated this Contract under the provisions of this Section, the Government Parties may take possession of the Project site and of all the materials, equipment and tools located thereon and/or pertaining thereto and finish the work by whatever reasonable method the Government Parties may deem expedient. In the event that this should occur, Contractor shall not be entitled to receive further payment, if at all, until the Project is completed, including, but not limited to, payments from retained funds regarding the Project.

C. If the cost to the Government Parties for finishing the Project exceeds the unpaid balance of the Contract price, Contractor shall pay the entire difference to the Government Parties within thirty days after the Government Parties send Contractor written notice of the unpaid balance of the Contract for which Contractor is obligated to pay.

D. Upon seven days written notice, the Government Parties may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate this Contract and/or the Contract Documents. In the event that this should occur, Contractor shall be paid for all work executed and any expenses sustained by Contractor through the date of termination of this Contract and/or the Contract Documents.

E. Other terms and conditions pertaining to termination or suspension are set forth in the *General Conditions* (Contract Document 13) and incorporated herein and made a part of this Contract by this reference.

### 13. Safety and Precautions

A. Contractor shall be responsible for initiating, maintaining and supervising reasonable and necessary safety precautions and programs in connection with the performance of the Project.

B. Contractor shall take all necessary and reasonable precautions for the safety of and shall provide reasonable protection to prevent damage, injury or loss to the employees of Contractor, subcontractor, employees of subcontractors, the Government Parties personnel and representatives, and any other persons affected by the Project.

### 14. Notices

Unless the express terms of this Contract provide otherwise, all notices, demands, and/or requests required or permitted under this Contract (collectively, the "Notices") shall be in writing and shall be delivered personally, by a nationally recognized overnight courier, or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the party(ies) at their respective address(es) set forth below, and the same shall be effective upon receipt if delivered personally, on the next business day if sent by overnight courier, or three (3) business days after deposit in the United States mail, if mailed:

<u>If to Government Entities:</u> Davis County Attn: Adam Wright, Public Works Director 1500 East 650 North Fruit Heights, UT 84037	<u>If to the Contractor:</u>
---	------------------------------

**15. Assignment**

The Parties agree that neither this Contract, nor the duties, obligations, responsibilities, or privileges under this Contract, may be assigned or transferred, in whole or in part, without the prior written consent of all of the Parties, except that Contractor consents hereby to the assignment by the Government Parties of their interest in the Project for security purposes or by reason of default in connection with the financing of the Project and agrees to execute any documents necessary with respect to such assignment for such financing or by reason of default.

**16. Choice of Law; Jurisdiction; Venue**

This Contract and all matters, disputes, and/or claims arising out of, in connection with, or relating to this Contract or its subject matter, formation or validity (including non-contractual matters, disputes, and/or claims) shall be governed by, construed, and interpreted in accordance with the laws of the State of Utah, without reference to conflict of law principals. The Parties irrevocably agree that the courts located in Davis County, State of Utah (or Salt Lake City, State of Utah, for claims that may only be litigated or resolved in the federal courts) shall have exclusive jurisdiction and be the exclusive venue with respect to any suit, action, proceeding, matter, dispute, and/or claim arising out of, in connection with, or relating to this Contract, or its formation or validity. The Parties irrevocably submit to the exclusive jurisdiction and exclusive venue of the courts located in the State of Utah as set forth directly above. Any party who unsuccessfully challenges the enforceability of this clause shall reimburse the prevailing party for its attorneys' fees, and the party prevailing in any such dispute shall be awarded its attorneys' fees.

**17. Binding Nature**

This Contract is binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, assigns, officers, directors, employees, agents, representatives, subrogees and to all persons or entities claiming by, through or under them.

**18. Contract Date**

The date of this Contract and the date upon which it shall become effective is the date that this Contract is executed and dated by the final party to execute and date this Contract.

**19. Counterparts**

This Contract may be executed in counterparts, each of which shall be deemed an original, and all such counterparts, taken together, shall constitute one and the same Contract.

**[Signature Pages Follow]**

Contract Document No.: 12

Project: 1100 West 500 South, Farmington, Utah (Road & Culvert Project)

Project No.: 1127-2

IN WITNESS WHEREOF, the Parties have each executed this Contract on the dates set forth below.

CONTRACTOR

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

DAVIS COUNTY

By: \_\_\_\_\_  
John Petroff, Jr., Chairperson  
Davis County Board of County Commissioners  
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Curtis Koch, Davis County Clerk/Auditor  
Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Davis County Attorney's Office  
Date: \_\_\_\_\_



Contract Document No.: 12  
Project: 1100 West 500 South, Farmington, Utah (Road & Culvert Project)  
Project No.: 1127-2

FARMINGTON CITY

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form and legality:

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

DAVIS SCHOOL DISTRICT

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form and legality:

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## Attachment A

### Disbursement Retainage Option

All disbursements under this Contract shall be subject to the following terms and conditions in accordance with Section 13-8-5, *Utah Code Annotated*:

1. Disbursements for each progress payment shall be as follows:
  - A. Ninety-five percent to Contractor;
  - B. Five percent to be retained by one of the designated Government Parties in a separate interest bearing fund to be distributed, together with any accrued interest thereon, to Contractor within forty-five days after the later of:
    - 1) The date that City receives the billing statement from the Contractor;
    - 2) The date that a certificate of occupancy or final acceptance notice is issued to one or all of the Government Parties; or
    - 3) The date Contractor accepts the final pay quantities.
2. Disbursements shall be made in accordance with the provisions of the Contract Documents including, but not limited to, Sections 4 and 5 of this Contract (Contract Document 12).
3. If only partial occupancy of the Project is permitted, any retention proceeds withheld and retained pursuant to this section and any accrued interest shall be partially released within forty-five days under the same conditions as provided in the foregoing Section 1 in direct proportion to the value of the part of the Project occupied.
4. The billing statement from Contractor as provided in the foregoing Subsection 1.B.(1 of this Attachment A shall include documentation of lien releases and/or waivers.
5. If Contractor or a subcontractor is in default or breach of the terms and conditions of the Contract Documents, including the plans and specifications governing construction of the Project, City may withhold from payment for as long as reasonably necessary an amount necessary to cure the breach or default of Contractor or subcontractor; or if a project or a portion of the Project has been substantially completed, City may retain until completion up to twice the fair market value of the work of Contractor or a subcontractor that has not been completed:
  - A. in accordance with the construction contract documents, plans, and specifications; or
  - B. in the absence of plans and specifications, to generally accepted draft standards.

Contract Document No.: 12 (Attachment A)

Project: 1100 West 500 South, Farmington, Utah (Road & Culvert Project)

Project No.: 1127-2

6. If City refuses payment under the foregoing Section 5, it shall describe in writing within forty-five days of withholding such amounts what portion of the work was not completed according to the standards specified.

7. Contractor or a subcontractor who receives retention proceeds shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received within ten (10) days from the day that all or any portion of the retention proceeds is received by:

- A. Contractor from County; or
- B. The subcontractor from:
  - 1) Contractor; or
  - 2) a subcontractor.

If a retention payment received by Contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to that designated subcontractor.

## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

**S U B J E C T:** City Council Committee Reports

### ACTION TO BE CONSIDERED:

Discussion only

### GENERAL INFORMATION:

City Council members will give a report regarding the various committees they service on.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.

## CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

### **SUBJECT: City Manager Report**

1. Police and Fire Monthly Activity Report for December 2015
2. Park Lane Pedestrian Overpass Update
3. Strategic Planning Date
4. Council Committee Assignments

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# Farmington City Police Department 2015 - Activity and Case load summary

	January	February	March	April	May	June	July	August	September	October	November	December
Total Case#	185	173	186	194	222	265	285	232	231	247	242	200
Total Reports Officer	68	73	69	86	94	92	119	82	121	94	124	93
Crime	103	81	93	77	100	139	125	107	74	130	90	68
Accident	18	19	24	31	29	35	45	38	33	22	31	43
Supp	54	29	52	44	33	52	52	41	34	34	45	44
Citations												
Total Cites	175	112	178	140	193	130	145	158	148	117	74	65
Traffic	76	85	142	97	153	80	110	121	121	74	48	21
Speed	21	24	39	28	32	18	27	28	22	12	4	6
Parking	66	0	0	5	2	1	1	22	0	7	0	17
Other	33	28	36	43	40	50	30	37	27	43	26	27
Activities												
Total	3200	3061	3615	2848	3108	3134	3482	3104	2913	2729	2390	1976
Investigations Working	53	56	39	30	37	56	62	65	67	76	78	73
# Reports	47	38	49	40	24	30	45	32	32	20	35	35



# Farmington City Police Department 2015 - Summary Cont.

		YTD	AVG
Cases		2662.00	221.83
Reports	Officer		92.92
	Crime		98.92
	Accident	368.00	30.67
	Supp		42.83
Citations	Total	1635.00	136.25
	Traffic		94.00
	Speed	261.00	21.75
	Parking		10.08
	Other		35.00
Activities		35560.00	2963.33
Investigations	Working		57.67
	# Reports	427.00	35.58



# Farmington City Fire Department

## Monthly Activity Report

December 2015



### Emergency Services

Fire / Rescue Related Calls: 22

*All Fires, Rescues, Haz-Mat, Vehicle Accidents, CO Calls, False Alarms, Brush Fires, EMS Scene Support, etc...*

Ambulance Related Calls: 78 / Transported 42 (54%)

*Medicals, Traumatic Incidents, Transfers, CO Calls w/ Symptomatic Patients, Medical Alarms, etc...*

Calls Missed / Unable to adequately staff: 4

Urgent EMS Related Response Times (AVG): 4.9 Minutes GOAL 4 minutes or less (+.9 min.)

Urgent Fire Related Response Times (AVG): 7.0 Minutes GOAL 4 minutes or less (+ 3.0min.)

### PT Department Man-Hours (based on the following 24-day pay period / December 11<sup>th</sup> and December 25<sup>th</sup>)

Part-Time Shift Staffing:	1,441	Budgeted 1,394	Variance +47
Part-Time Secretary:	82	Budgeted 80	Variance + 2
Part-Time Fire Marshal:	80	Budgeted 80	Variance + 0
Full-Time Captains:	N/A	48/96 Hour Schedule	Variances / Overtime + 9
Full-Time Fire Chief:	N/A	Salary Exempt	
Training & Drills:	139		
Emergency Callbacks:	305	FIRE 85 Hrs. / EMS 220 Hrs. (YTD) 2,409	
Special Event Hours:	0	(YTD) 1,130	
Total PT Staffing Hours:	2,047	(YTD) 18,217	

### Monthly Revenues & Grant Activity YTD

Ambulance (November):	Month	Calendar Year	FY 2015
Ambulance Services Billed:	\$51,580.47	\$546,724.13 YTD	\$797,336.50
Ambulance Billing Collected:	\$20,770.65	\$244,261.28 YTD	\$418,327.06
<b>Variances:</b>	<b>-\$30,809.82</b>	<b>-\$302,462.85 YTD</b>	<b>-\$379,009.44</b>
Collection Percentages:	40%	45%	52%



## Grants / Assistance / Donations

### Grants Applied For:

Fire Prevention Vehicle Rims, Decals, Lights, Dash-mat, etc. \$5,500 **\$44,220 YTD**

### Grants / Funds Received / Awarded:

Fire Prevention Vehicle Rims, Decals, Lights, Dash-mat \$4,500 **\$16,300 YTD**

## Scheduled Department Training (To Include Wednesday Evening Drills) & Man Hours

Drill # 1– Officers Monthly Meeting & Training:	21	
Drill #2 – Large Apparatus Driving Drills	104	Avg. Wednesday Night Drill Att.
Drill #3 – Dept. Christmas Party	0	FFD Personnel This Month: 28
Drill #4 – No Drill – Christmas & New Year Eve	0	
Other:		
Inspections / Special Training Assignment*	64	
New Hire Boot Camp Training Completion x 8	14	
<b>Total Training / Actual Hours Attended:</b>	<b>203</b>	<b>1,981.5 HRS YTD</b>

## Fire Prevention & Inspection Activities

	QTY	
Existing Business Inspections:	22	
Re-Inspections – Existing Business	23	
Fire Plan Reviews & Related:		
Consultations & Construction Meetings:		
Station Tours & Public Education Sessions:		188 YTD

## Health, Wellness & Safety Activities

	QTY	
Reportable Injuries:	0	2 YTD
Physical Fitness / Gym Membership Participation %	100%	
Chaplaincy Events:	2	

## FFD Committees & Other Internal Group Status

Process Improvement Program (PIP) Submittals:	2	5 YTD
---	---	-------

**Active FFD Committees:** Emergency Medical Services (EMS), Apparatus & Equipment, FireWise, Rescue/Heavy Rescue, Water, Rope & Related Equipment, Wildland Apparatus & Equipment, Health, Wellness & Safety, Charity / Fund Raiser, Fire Prevention & Pub-Ed, Haz-Mat, and Facilities.

### Additional Narrative:

Emergent EMS response times averaged 4.9 minutes and Emergent FIRE response times averaged 7.0 minutes – primarily due to compromised road conditions. Four calls resulted in “no-staffing” or “short-staffing” of apparatus (on-duty crew attending to other calls and/or part-time staffing not available due to availability). 54% of all Ambulance calls resulted in transporting patients to Hospitals. Collections of revenues continue with little predictability due to collection & mandated billing variables. Regular training was limited throughout the month due to holiday dates. Training focused on Leadership Development, Business Inspection Practices and Heavy Apparatus Driving. Part-time shift staffing exceeded typical parameters as to cover vacation hours used by Full-time personnel. FFD sponsored several personnel to attend Inspector and Instructor classes held within the county. As previously reported, several of our Fire Engines required repairs to the tune of 9K. I am happy to report all of our fire apparatuses passed the annual (3<sup>rd</sup> party) pump testing and are rated to for service. Attached you will find copies of our annual statistical breakdown regarding services rendered in 2015.

FFD is in the process of transferring another vehicle to Parks and Recreation. This is the 2<sup>nd</sup> of three FD vehicles being repurposed within the city. This vehicle (1997 F350 King Cab) was once used as a Medical 1<sup>st</sup> Responder truck, then repurposed as a Brush Truck; however, removed from service as it significantly exceeded manufacturers weight limits. As soon as the LMTV (highlighted in the November report) is placed into service, FFD will turn-over another pick-up truck (2003 F250 Extended Cab) to Parks and Recreation.



FFD received sponsorship donations from several vendors (Burt Brothers, Young Dodge, Ray's Muffler, Patties Paint and Alpha-Graphics) to help update our Fire Prevention vehicle. This vehicle is a repurposed Police car that meets our needs for day-to-day business inspections, various school safety programs, "Fire Wise Community" program captures the attention of children. This vehicle will also play an intricate part of future grant opportunities!



The Farmington Firefighters Association in conjunction with FFD and Harmons participated in the 3<sup>rd</sup> annual "Breakfast with Santa" charity event to raise money for the Farmington Vista Education School. This annual event has raised thousands of dollars for much needed equipment and supplies for children with special needs. FFD personnel volunteer their time to help cook a hearty breakfast for hundreds of hungry customers. Harmons and various vendors pay for all the food and supplies needed for the event.

#### **Santa Lands in Farmington**




*In Closing,*

As another busy and productive year passes by, I would like to recognize all of our personnel, fellow employees from other departments and city leaders for their support during 2015. It goes without question our City Manager, Mayor and City Council play a vital role in helping us protect our growing community. We look forward to serving another years!

Please feel free to contact myself at your convenience with questions, comments or concerns:

Office (801) 939-9260 or email [gsmith@farmington.utah.gov](mailto:gsmith@farmington.utah.gov)

Respectfully,

  
Guido Smith  
Fire Chief

# Farmington City Fire Department

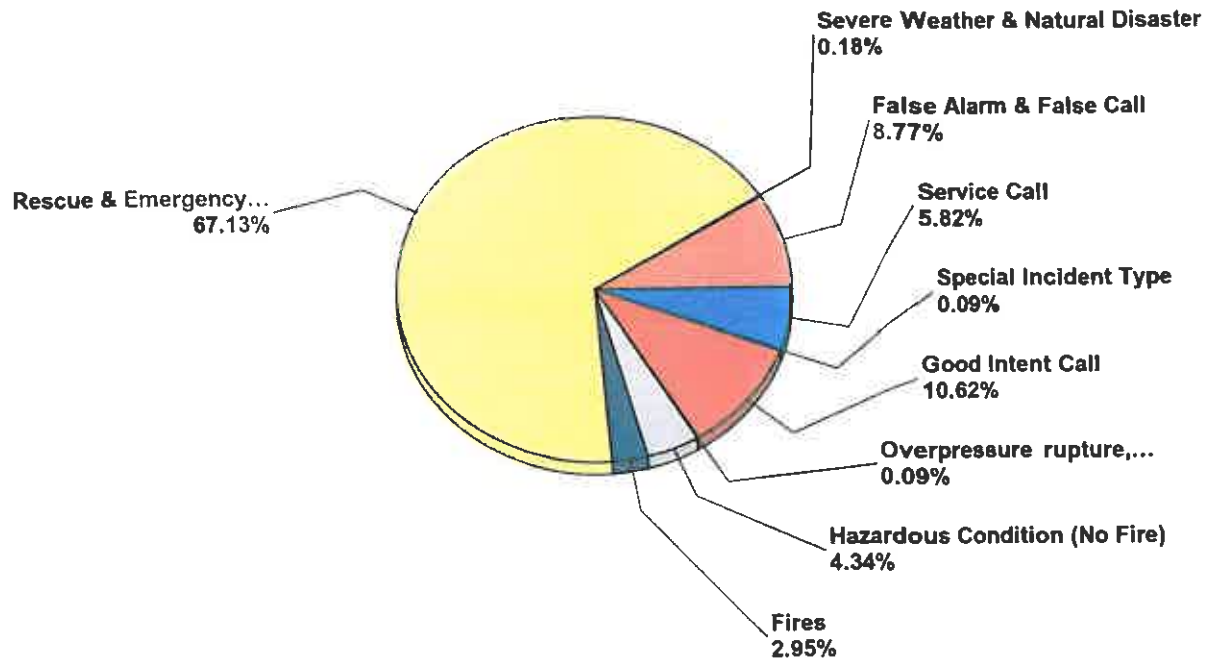
Farmington, UT

This report was generated on 1/9/2016 10:15:05 AM



## Breakdown by Major Incident Types for Date Range

Zone(s): All Zones | Start Date: 01/01/2015 | End Date: 12/31/2015



MAJOR INCIDENT TYPE	# INCIDENTS	% of TOTAL
Fires	32 38	2.95%
Overpressure rupture, explosion, overheating - no fire	1	0.09%
Rescue & Emergency Medical Service	727 739	67.13%
Hazardous Condition (No Fire)	47	4.34%
Service Call	63	5.82%
Good Intent Call	115	10.62%
False Alarm & False Call	95	8.77%
Severe Weather & Natural Disaster	2	0.18%
Special Incident Type	1	0.09%
<b>TOTAL</b>	<del>1083</del> 1101	<b>100.00%</b>

Only REVIEWED incidents included. Summary results for a major incident type are not displayed if the count is zero.

# Farmington City Fire Department

Farmington, UT

This report was generated on 1/9/2016 10:15:36 AM



## Incident Statistics

Start Date: 01/01/2015 | End Date: 12/31/2015

INCIDENT COUNT			
INCIDENT TYPE		# INCIDENTS	
EMS		<del>727</del>	739
FIRE		<del>356</del>	362
TOTAL		<del>1083</del>	1101
TOTAL TRANSPORTS			
APPARATUS	# of APPARATUS TRANSPORTS	# of PATIENT TRANSPORTS	TOTAL # of PATIENT CONTACTS
0	0	0	0
A71	273	271	571
A711	18	18	42
A72	4	4	8
<del>AMB71</del>	<del>0</del>	<del>0</del>	<del>18</del>
TOTAL	295	293	639
PRE-INCIDENT VALUE		LOSSES	
\$55,000.00		\$36,000.00	
CO CHECKS			
424 - Carbon monoxide incident		1	
736 - CO detector activation due to malfunction		15	
746 - Carbon monoxide detector activation, no CO		15	
TOTAL		31	
MUTUAL AID			
Aid Type		Total	
Aid Given		15	
Aid Received		10	
OVERLAPPING CALLS			
# OVERLAPPING		% OVERLAPPING	
218		20.13	
LIGHTS AND SIREN - AVERAGE RESPONSE TIME (Dispatch to Arrival)			
Station	EMS	FIRE	
Station 71	0:06:17	0:07:52	
AVERAGE FOR ALL CALLS		0:06:32	
LIGHTS AND SIREN - AVERAGE TURNOUT TIME (Dispatch to Enroute)			
Station	EMS	FIRE	
Station 71	0:01:42	0:02:10	
AVERAGE FOR ALL CALLS		0:01:47	

Only Reviewed Incidents included. CO Checks only includes Incident Types: 424, 736 and 734. # Apparatus Transports = # of incidents where apparatus transported. # Patient Transports = # of PCR with disposition "Treated, Transported by EMS". # Patient Contacts = # of PCR contacted by apparatus.



**EMERGENCY REPORTING**

emergencyreporting.com  
Doc Id: 1645

Page # 1 of 2

# Farmington City Fire Department

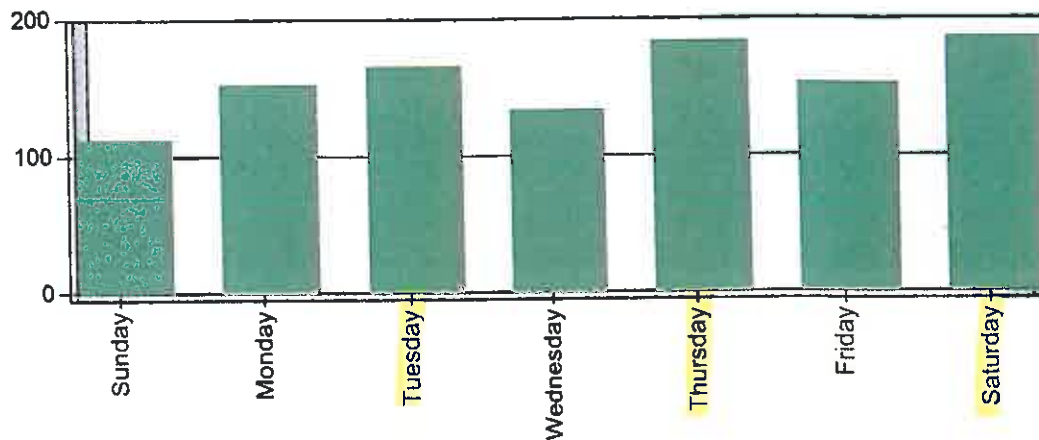
Farmington, UT

This report was generated on 1/9/2016 9:51:17 AM



## Incidents by Day of the Week for Date Range

Start Date: 01/01/2015 | End Date: 12/31/2015



DAY OF THE WEEK : # INCIDENTS	
Sunday	112
Monday	152
Tuesday	165
Wednesday	133
Thursday	183
Friday	152
Saturday	186
TOTAL	1083

Only REVIEWED incidents included



**EMERGENCY  
REPORTING**

emergencyreporting.com

Doc Id: 445

Page # 1



# Farmington City Fire Department

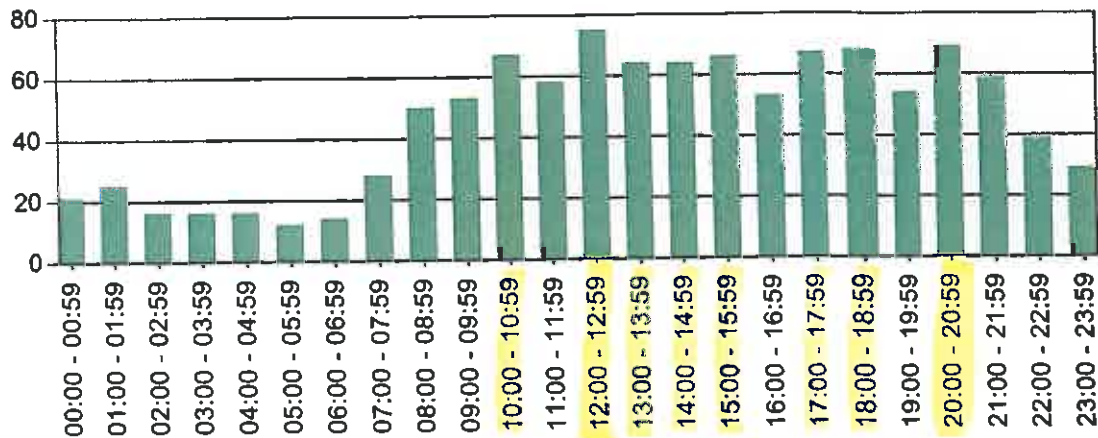
Farmington, UT

This report was generated on 1/9/2016 9:51:41 AM



## Incidents by Hour for Date Range

Start Date: 01/01/2015 | End Date: 12/31/2015



Hour	# of CALLS
00:00 - 00:59	21
01:00 - 01:59	25
02:00 - 02:59	16
03:00 - 03:59	16
04:00 - 04:59	16
05:00 - 05:59	12
06:00 - 06:59	14
07:00 - 07:59	28
08:00 - 08:59	50
09:00 - 09:59	53
10:00 - 10:59	67
11:00 - 11:59	58
12:00 - 12:59	75
13:00 - 13:59	64
14:00 - 14:59	64
15:00 - 15:59	66
16:00 - 16:59	53
17:00 - 17:59	67
18:00 - 18:59	68

Only REVIEWED incidents included



**EMERGENCY  
REPORTING**

emergencyreporting.com

Doc Id: 18

Page # 1

CITY COUNCIL AGENDA

For Council Meeting:  
January 19, 2016

**SUBJECT: Mayor Talbot & City Council Reports**

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.